MONDAY, MAY 10, 2010

EIGHTY-SIXTH LEGISLATIVE DAY

CALL TO ORDER

The Senate met at 4:00 p.m., and was called to order by Mr. Speaker Ramsey.

PRAYER

The proceedings were opened with prayer by Senator Haynes.

PLEDGE OF ALLEGIANCE

Senator Haynes led the Senate in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present 32

Senators present were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

COMMUNICATION

May 10, 2010

Lt. Governor Ron Ramsey
1 Legislative Plaza
Nashville, TN 37243

Dear Mr. Speaker,

This is to request to be excused from Session on Monday, May 10, 2010. My husband, Will, is recovering from hip replacement surgery and my presence is needed in the home right now. I expect to return for Session on Thursday, May 13, 2010.

Thank you for your patience in this regard.

Sincerely,

/s/ Senator Dolores Gresham
District 26

APPROVED: Lieutenant Governor
Ron Ramsey

MOTION

Senator Norris moved, pursuant to Rule 32 and Article II, Section 18 of the Constitution of the State of Tennessee, **House Bills Nos. 725, 2454, 2492, 2703, 3351, 3725 and 3979** be passed on first consideration, which motion prevailed.

HOUSE BILLS ON FIRST CONSIDERATION

The Speaker announced that the following House Bills were transmitted to the Senate and passed first consideration:

House Bill No. 725 -- Game and Fish Laws -- As introduced, specifies that hunting or taking animals by use of bait shall not be prohibited unless the bait is visible at the time and location of such hunt or taking. Amends TCA Title 70, Chapter 4, Part 1.

House Bill No. 2454 -- Administrative Procedure (UAPA) -- As introduced, continues certain permanent rules filed with secretary of state after January 1, 2009. Amends TCA Title 4, Chapter 5.

House Bill No. 2492 -- Firefighters -- As introduced, exempts firefighters located within the unincorporated area of Claiborne County and any municipality located within Claiborne County from the minimum training requirements unless the governing body of a municipality or the county adopts a resolution to apply such requirements within their respective jurisdictional boundaries. Amends TCA Section 4-24-112.

House Bill No. 2703 -- Municipal Government -- As introduced, clarifies the authority of the legislative body of a municipality to approve the acquisition of a public facility that had been improved or constructed by a third party and to issue revenue bonds to finance all costs and expenses incurred in connection with the acquisition of the facilities. Amends TCA Title 7, Chapter 32 and Title 7, Chapter 33.

House Bill No. 3351 -- State Government -- As introduced, requires information be provided on the projected financial impact of rules and regulations promulgated during a fiscal year. Amends TCA Section 3-2-107; Title 4, Chapter 5, Part 2 and Title 9, Chapter 4, Part 51.

House Bill No. 3725 -- Motor Vehicles -- As introduced, increases cost of special annual permit for single motor vehicles that do not exceed certain weight and length limitations transporting seed cotton modules from $100 to $200. Amends TCA Section 55-7-205.

House Bill No. 3979 -- Roane County -- As introduced, subject to local approval, sets salary of county attorney to 60 percent of the general sessions judges' salary; provides for payment of reasonable travel expenses related to office of county attorney upon showing receipts. Amends Chapter 111 of the Private Acts of 1937; as amended.

MOTION

Senator Norris moved, pursuant to Rule 33 and Article II, Section 18 of the Constitution of the State of Tennessee, that **Senate Bill No. 3955** be passed on second consideration and be referred to the appropriate committee or held on the Clerk's desk, which motion prevailed.

SENATE BILL ON SECOND CONSIDERATION

The Speaker announced that the following bill passed second consideration and was referred to the appropriate committee or held on the Clerk's desk:

Senate Bill No. 3955 Local bill -- held on desk.

MOTION

Senator Norris moved, pursuant to Rule 21, **Senate Joint Resolutions Nos. 1169 through 1180**; and **Senate Resolutions Nos. 223 and 224** be passed on first consideration and lie over, which motion prevailed.

INTRODUCTION OF RESOLUTIONS

The Speaker announced that the following resolutions were filed for introduction. Pursuant to Rule 21, the resolutions lie over.

Senate Joint Resolution No. 1169 by Senator Beavers.
Memorials, Academic Achievement -- Samantha Elaine Wright, Valedictorian, Gordonsville High School.

Senate Joint Resolution No. 1170 by Senator Beavers.
Memorials, Academic Achievement -- Kelsey Dillingham, Salutatorian, Gordonsville High School.

Senate Joint Resolution No. 1171 by Senator Beavers.
Memorials, Academic Achievement -- Kariah Petrille, Salutatorian, Heritage Christian Academy.

Senate Joint Resolution No. 1172 by Senator Beavers.
Memorials, Academic Achievement -- Stephanie Burnette, Valedictorian, Heritage Christian Academy.

Senate Joint Resolution No. 1173 by Mr. Speaker Ramsey.
Memorials, Retirement -- Howard Carlton.

Senate Joint Resolution No. 1174 by Senator Bunch.
Memorials, Recognition -- Betty Tinker.

Senate Joint Resolution No. 1175 by Senator Herron.
Memorials, Academic Achievement -- Liesel Grossner, Valedictorian, Obion County Central High School.

Senate Joint Resolution No. 1176 by Senator Herron.
Memorials, Academic Achievement -- Matthew Roberson, Salutatorian, Obion County Central High School.

Senate Joint Resolution No. 1177 by Senator Herron.
Memorials, Sports -- Martin Middle School Cheerleaders, Universal Cheerleaders Association's National High School Cheerleading Championship Jr. High Champions.

Senate Joint Resolution No. 1178 by Senator Burks.
Memorials, Academic Achievement -- Samantha Agee, Valedictorian, Jackson County High School.

Senate Joint Resolution No. 1179 by Senator Burks.
Memorials, Academic Achievement -- Stewart Rich, Valedictorian, Pickett County High School.

Senate Joint Resolution No. 1180 by Senator Burks.
Memorials, Academic Achievement -- Fernando Rodriguez, Salutatorian, Pickett County High School.

Senate Resolution No. 223 by Senator Gresham.
Memorials, Retirement -- Billy Garrard.

Senate Resolution No. 224 by Senator Beavers.
Memorials, Interns -- Josh Bradley.

MOTION

Senator Norris moved, pursuant to Rule 21, **Senate Joint Resolutions Nos. 1141 through 1147 and 1149 through 1168**; and **Senate Resolutions Nos. 220 through 222** lie over and be referred to the appropriate committees or held on the Clerk's desk, which motion prevailed.

RESOLUTIONS LYING OVER

The Speaker announced that the following resolutions passed second consideration and were referred to the appropriate committees or held on the desk, pursuant to Rule 21:

Senate Joint Resolution No. 1141 -- Memorials, Interns -- Richard Alexander Lewis.

The Speaker announced that he had referred Senate Joint Resolution No. 1141 to the Committee on Calendar.

Senate Joint Resolution No. 1142 -- Memorials, Interns -- Casey Lauren Click.

The Speaker announced that he had referred Senate Joint Resolution No. 1142 to the Committee on Calendar.

Senate Joint Resolution No. 1143 -- Memorials, Retirement -- Judy Baggett.

The Speaker announced that he had referred Senate Joint Resolution No. 1143 to the Committee on Calendar.

Senate Joint Resolution No. 1144 -- Memorials, Academic Achievement -- Cameron Massey, Salutatorian, Wilson Central High School.

The Speaker announced that he had referred Senate Joint Resolution No. 1144 to the Committee on Calendar.

Senate Joint Resolution No. 1145 -- Memorials, Academic Achievement -- Hardie V. Sorrels IV, Salutatorian, Friendship Christian School.

The Speaker announced that he had referred Senate Joint Resolution No. 1145 to the Committee on Calendar.

Senate Joint Resolution No. 1146 -- Memorials, Academic Achievement -- Dillon K. Bane, Valedictorian, Friendship Christian School.

The Speaker announced that he had referred Senate Joint Resolution No. 1146 to the Committee on Calendar.

Senate Joint Resolution No. 1147 -- Memorials, Interns -- Nicholas Ryan Swindle.

The Speaker announced that he had referred Senate Joint Resolution No. 1147 to the Committee on Calendar.

Senate Joint Resolution No. 1149 -- Memorials, Academic Achievement -- Jessica Murray, Valedictorian, Wilson Central High School.

The Speaker announced that he had referred Senate Joint Resolution No. 1149 to the Committee on Calendar.

Senate Joint Resolution No. 1150 -- Memorials, Interns -- Charlie Hill Brooks.

The Speaker announced that he had referred Senate Joint Resolution No. 1150 to the Committee on Calendar.

Senate Joint Resolution No. 1151 -- Memorials, Interns -- Matthew Douglas Kothe.

The Speaker announced that he had referred Senate Joint Resolution No. 1151 to the Committee on Calendar.

Senate Joint Resolution No. 1152 -- Memorials, Retirement -- Gloria Rollins.

The Speaker announced that he had referred Senate Joint Resolution No. 1152 to the Committee on Calendar.

Senate Joint Resolution No. 1153 -- Memorials, Death -- Donna Castle.

The Speaker announced that he had referred Senate Joint Resolution No. 1153 to the Committee on Calendar.

Senate Joint Resolution No. 1154 -- Memorials, Professional Achievement -- Tolley and Lowe Incorporated, Milan Chamber of Commerce 2009 Steve March Pinnacle Award.

The Speaker announced that he had referred Senate Joint Resolution No. 1154 to the Committee on Calendar.

Senate Joint Resolution No. 1155 -- Memorials, Recognition -- Patsy Perry, Milan Chamber of Commerce 2010 Woman of the Year.

The Speaker announced that he had referred Senate Joint Resolution No. 1155 to the Committee on Calendar.

Senate Joint Resolution No. 1156 -- Memorials, Death -- Reverend Joe Thomas Vickers.

The Speaker announced that he had referred Senate Joint Resolution No. 1156 to the Committee on Calendar.

Senate Joint Resolution No. 1157 -- Memorials, Professional Achievement -- Jerry Stump, Chairman of American Council of Engineering Companies.

The Speaker announced that he had referred Senate Joint Resolution No. 1157 to the Committee on Calendar.

Senate Joint Resolution No. 1158 -- Memorials, Recognition -- Claude Smith Harvey, Jr.

The Speaker announced that he had referred Senate Joint Resolution No. 1158 to the Committee on Calendar.

Senate Joint Resolution No. 1159 -- Memorials, Academic Achievement -- Kaysie Elizabeth Jackson, Salutatorian, Gallatin High School.

The Speaker announced that he had referred Senate Joint Resolution No. 1159 to the Committee on Calendar.

Senate Joint Resolution No. 1160 -- Memorials, Academic Achievement -- Sara Kathrine Nash, Valedictorian, Gallatin High School.

The Speaker announced that he had referred Senate Joint Resolution No. 1160 to the Committee on Calendar.

Senate Joint Resolution No. 1161 -- Memorials, Recognition -- James Tiller.

The Speaker announced that he had referred Senate Joint Resolution No. 1161 to the Committee on Calendar.

Senate Joint Resolution No. 1162 -- Memorials, Recognition -- Hoskins Drug Store, 80th anniversary.

The Speaker announced that he had referred Senate Joint Resolution No. 1162 to the Committee on Calendar.

Senate Joint Resolution No. 1163 -- Memorials, Academic Achievement -- Margaret H. Hudson, Valedictorian, Henry County High School.

The Speaker announced that he had referred Senate Joint Resolution No. 1163 to the Committee on Calendar.

Senate Joint Resolution No. 1164 -- Memorials, Academic Achievement -- John Thomas Salmon, Salutatorian, Henry County High School.

The Speaker announced that he had referred Senate Joint Resolution No. 1164 to the Committee on Calendar.

Senate Joint Resolution No. 1165 -- Memorials, Academic Achievement -- Victoria Pierpoint, Valedictorian, Big Sandy High School.

The Speaker announced that he had referred Senate Joint Resolution No. 1165 to the Committee on Calendar.

Senate Joint Resolution No. 1166 -- Memorials, Academic Achievement -- Charles Kelby Snow, Salutatorian, Big Sandy High School.

The Speaker announced that he had referred Senate Joint Resolution No. 1166 to the Committee on Calendar.

Senate Joint Resolution No. 1167 -- Memorials, Academic Achievement -- Elizabeth Ann Rolin, Valedictorian, Trousdale County High School.

The Speaker announced that he had referred Senate Joint Resolution No. 1167 to the Committee on Calendar.

Senate Joint Resolution No. 1168 -- Memorials, Recognition -- Dr. O. Thomas Johns, 2010 Thomas A. Brady Community Service Award.

The Speaker announced that he had referred Senate Joint Resolution No. 1168 to the Committee on Calendar.

Senate Resolution No. 220 -- Memorials, Interns -- Jordan Woodruff.

The Speaker announced that he had referred Senate Resolution No. 220 to the Committee on Calendar.

Senate Resolution No. 221 -- Memorials, Interns -- Ntianu Carter.

The Speaker announced that he had referred Senate Resolution No. 221 to the Committee on Calendar.

Senate Resolution No. 222 -- Memorials, Academic Achievement -- Kegan Rinard, Jefferson County High School.

The Speaker announced that he had referred Senate Resolution No. 222 to the Committee on Calendar.

CONSENT CALENDAR

House Joint Resolution No. 1180 -- Memorials, Recognition -- First Presbyterian Church of Smyrna, 200th anniversary.

House Joint Resolution No. 1181 -- Memorials, Recognition -- Cameron Schilling, 1st place in the Department of Education's Teacher License Plate Design Contest.

House Joint Resolution No. 1182 -- Memorials, Sports -- Austin Peay State University womens basketball team, OVC Champions.

House Joint Resolution No. 1184 -- Memorials, Interns -- Hollie Harris.

House Joint Resolution No. 1185 -- Memorials, Recognition -- Harpeth High School's Band of Blue Winter Drumline.

House Joint Resolution No. 1186 -- Memorials, Recognition -- Lawrenceburg Lions Club, 75th anniversary.

House Joint Resolution No. 1187 -- Memorials, Interns -- Spencer Douglas.

House Joint Resolution No. 1188 -- Memorials, Interns -- Nathan W. Whitt.

House Joint Resolution No. 1189 -- Memorials, Interns -- Brandon Drew Whiteley.

House Joint Resolution No. 1190 -- Memorials, Interns -- Jessica Tippett Sprague.

House Joint Resolution No. 1193 -- Memorials, Academic Achievement -- Ethan Hosea, Salutatorian, Hardin County High School.

House Joint Resolution No. 1194 -- Memorials, Academic Achievement -- Christopher Jerrolds, Valedictorian, Hardin County High School.

House Joint Resolution No. 1195 -- Memorials, Academic Achievement -- Stephanie Combs, Valedictorian, Adamsville High School.

House Joint Resolution No. 1196 -- Memorials, Academic Achievement -- Lani Rinks, Salutatorian, Adamsville High School.

House Joint Resolution No. 1197 -- Memorials, Academic Achievement -- Megan Patch, Valedictorian, Red Boiling Springs High School.

House Joint Resolution No. 1198 -- Memorials, Academic Achievement -- Paige Ferguson, Valedictorian, Red Boiling Springs High School.

House Joint Resolution No. 1199 -- Memorials, Interns -- Amorya Myonna Orr.

House Joint Resolution No. 1200 -- Memorials, Interns -- Jennifer Pinho.

House Joint Resolution No. 1201 -- Memorials, Recognition -- Miss Tennessee National Teenager Scholarship Program and Paige Goddard, State Director.

House Joint Resolution No. 1202 -- Memorials, Recognition -- Ronald E. Rogers.

House Joint Resolution No. 1203 -- Memorials, Retirement -- Jerry Bomar.

House Joint Resolution No. 1204 -- Memorials, Recognition -- Confucius Institute at the University of Memphis, 3rd anniversary.

House Joint Resolution No. 1205 -- Memorials, Recognition -- Sam Bomarito, Pete & Sam's restaurant.

House Joint Resolution No. 1208 -- Memorials, Personal Occasion -- William Edward Rice, Jr., and Virginia "Ginger" Crockett Rice, 50th wedding anniversary.

House Joint Resolution No. 1209 -- Memorials, Public Service -- Jason Allen Arboretum Trail at Long Hunter State Park.

House Joint Resolution No. 1210 -- Memorials, Public Service -- Ms. Liana Dranes Natural Circle Room at Long Hunter State Park.

House Joint Resolution No. 1211 -- Memorials, Professional Achievement -- Jim Milan, Lewis County School System Teacher of the Year, High School.

House Joint Resolution No. 1212 -- Memorials, Professional Achievement -- Amanda Pennington, Lewis County School System Teacher of the Year, Intermediate.

House Joint Resolution No. 1213 -- Memorials, Professional Achievement -- Sandra Thompson, Lewis County Elementary School Teacher of the Year.

House Joint Resolution No. 1214 -- Memorials, Professional Achievement -- Lillie Mitchell, 2009-2010 Lewis County Middle School Teacher of the Year.

House Joint Resolution No. 1215 -- Memorials, Recognition -- Charles T. Floyd.

House Joint Resolution No. 1216 -- Memorials, Death -- Prebble T. Galloway.

House Joint Resolution No. 1219 -- Memorials, Public Service -- Representative Ben West, Jr.

House Joint Resolution No. 1220 -- Memorials, Public Service -- Representative John Litz.

Senator Faulk moved that all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

CALENDAR

House Bill No. 270 -- Election Laws -- As introduced, requires citizenship status to be proven prior to registration to vote and requires certain procedures to ensure identity and citizenship status prior to voting. Amends TCA Title 2, as amended.

Senator Kyle moved that Amendment No. 4 be placed at the heel of the Amendments, which motion prevailed.

Senator Kyle moved that Amendment No. 5 be placed at the heel of the Amendments, which motion prevailed.

Senator Kyle moved that Amendment No. 6 be placed at the heel of the Amendments, which motion prevailed.

Senator Norris moved that Amendment No. 7 be placed at the heel of the Amendments, which motion prevailed.

Senator Norris moved to amend as follows:

AMENDMENT NO. 8

AMEND by adding the following language before the first sentence in subsection (b) in the Section immediately preceding the severability clause section of the bill as amended by Senate Amendment No. 3:

This section shall only apply to new registrations.

On motion, Amendment No. 8 was adopted.

Senator Norris moved that Amendment No. 9 be placed at the heel of the Amendments, which motion prevailed.

On motion of Senator Kyle, Amendment No. 4 was withdrawn.

On motion of Senator Kyle, Amendment No. 5 was withdrawn.

Senator Kyle moved to amend as follows:

AMENDMENT NO. 6

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ___. Each county election commission shall report semi-annually to the State Election Commission concerning the provisions of this act. Such reports shall be approved and signed by at least one (1) commissioner representing the majority party and (1) commissioner representing the minority party. The report shall include:

(1) The number of applicants not registered due to failure to provide sufficient proof of United States citizenship;

(2) The types of evidence of United States citizenship submitted with accepted voter registration applications and the number of applicants submitting each type of evidence;

(3) The types of rejected evidence of United States citizenship submitted with rejected voter registration application and the number of applicants submitting each type of evidence;

(4) The number of applicants initially rejected on the basis of United States citizenship and later accepted since the last report;

(5) The number of applicants rejected due to failure to provide sufficient proof of United States citizenship who did not reapply for voter registration with the county election commission; and

(6) The gender, race, ethnicity, nationality of origin or any of such characteristics of rejected applicants if provided by the applicant or otherwise known; provided, that if one (1) or more of such characteristics are unknown, the total number of unknown in each category during the reporting period.

The state coordinator of elections shall compile such information into an omnibus annual report to be provided to the State Election Commission by February 1 each year.

On motion, Amendment No. 6 failed by the following vote:

Ayes 14
Noes 18

Senators voting aye were: Barnes, Berke, Burks, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Kyle, Marrero, Stewart and Tate--14.

Senators voting no were: Beavers, Black, Bunch, Burchett, Crowe, Faulk, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Southerland, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--18.

On motion of Senator Norris, Amendment No. 7 was withdrawn.

On motion of Senator Norris, Amendment No. 9 was withdrawn.

Senator Black moved for the previous question on **House Bill No. 270**, as amended, which motion failed by the following vote:

Ayes 19
Noes 13

Senators voting aye were: Beavers, Black, Bunch, Burchett, Burks, Crowe, Faulk, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Southerland, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--19.

Senators voting no were: Barnes, Berke, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Kyle, Marrero, Stewart and Tate--13.

Senator Herron moved to amend as follows:

AMENDMENT NO. 10

AMEND by adding the language "Satisfactory" before the language "Evidence of citizenship shall include" in subsection (a) of the section immediately preceding the severability clause section.

Pursuant to Rule 39(3), Amendment No. 10 was adopted by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle,

Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

Senator Norris moved for the previous question on **House Bill No. 270**, as amended, which motion failed by the following vote:

Ayes 19
Noes 12

Senators voting aye were: Beavers, Black, Bunch, Burchett, Burks, Crowe, Faulk, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Southerland, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--19.

Senators voting no were: Barnes, Berke, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Kyle, Marrero and Tate--12.

Senator Kelsey moved to amend as follows:

AMENDMENT NO. 11

AMEND by deleting the following language from the bill as amended by Senate Amendment No. 3:

> The printed registration forms shall also include a statement that the applicant shall submit evidence of United States citizenship with the application and that the registrar may reject the application if no evidence of citizenship is attached.

and substituting instead the language:

> The printed registration forms shall also include a statement that the applicant shall submit evidence of United States citizenship with the application and that the registrar shall reject the application if no evidence of citizenship is attached.

AND FURTHER AMEND by deleting the following language from the bill as amended by Senate Amendment No. 3:

> The administrator of elections may reject any application for registration that is not accompanied by satisfactory evidence of United States citizenship.

and substituting instead the language:

> The administrator of elections shall reject any application for registration that is not accompanied by satisfactory evidence of United States citizenship.

Pursuant to Rule 39(3), Amendment No. 11 failed for the lack of a two-thirds majority by the following vote:

Ayes 19
Noes 9
Present, not voting . . . 4

Senators voting aye were: Beavers, Black, Bunch, Burchett, Burks, Crowe, Faulk, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Southerland, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--19.

Senators voting no were: Barnes, Berke, Ford, Harper, Haynes, Herron, Kyle, Marrero and Tate--9.

Senators present and not voting were: Finney, Henry, Jackson and Stewart--4.

Senator Herron moved to amend as follows:

AMENDMENT NO. 12

AMEND by deleting the language "for an undetermined period of time" and substituting instead the language "until the next election" in subsection (c) of the first section added by Senate Amendment No. 3.

Pursuant to Rule 39(3), Amendment No. 12 failed for the lack of a two-thirds majority by the following vote:

Ayes 11
Noes 16
Present, not voting . . . 2

Senators voting aye were: Barnes, Berke, Finney, Ford, Harper, Haynes, Henry, Herron, Kyle, Marrero and Stewart--11.

Senators voting no were: Beavers, Black, Bunch, Burchett, Burks, Crowe, Faulk, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Tracy, Watson and Yager--16.

Senators present and not voting were: Jackson and Southerland--2.

Senator Norris moved for the previous question on **House Bill No. 270**, as amended, which motion failed by the following vote:

Ayes 19
Noes 11

Senators voting aye were: Beavers, Black, Bunch, Burchett, Crowe, Faulk, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Southerland, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--19.

Senators voting no were: Barnes, Berke, Burks, Finney, Ford, Harper, Haynes, Herron, Kyle, Marrero and Tate--11.

Senator Norris moved for the previous question on **House Bill No. 270**, as amended, which motion prevailed by the following vote:

Ayes 19
Noes 9

Senators voting aye were: Beavers, Black, Bunch, Burchett, Crowe, Faulk, Henry, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Southerland, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--19.

Senators voting no were: Barnes, Berke, Ford, Harper, Haynes, Herron, Kyle, Marrero and Tate--9.

Thereupon, **House Bill No. 270**, as amended, passed its third and final consideration by the following vote:

Ayes 20
Noes 12

Senators voting aye were: Beavers, Black, Bunch, Burchett, Crowe, Faulk, Finney, Herron, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Southerland, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--20.

Senators voting no were: Barnes, Berke, Burks, Ford, Harper, Haynes, Henry, Jackson, Kyle, Marrero, Stewart and Tate--12.

A motion to reconsider was tabled.

Senate Bill No. 63 -- Driver Licenses -- As introduced, requires that all written examinations for driver license or intermediate driver license be in English. Amends TCA Title 55, Chapter 50, Part 3.

Senator Tracy moved that Amendment No. 1 be placed at the heel of the Amendments, which motion prevailed.

Senator McNally moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-50-322, is amended by adding the following language as a new subsection (j):

(j) Except as noted herein, all examinations administered to applicants for a driver license, intermediate driver license, temporary driver license, or temporary intermediate driver license shall be in English. For persons whose presence in the United States has been approved and authorized by the United States Department of Homeland Security for a specific purpose, including, but not limited to, investing, overseeing investment, or providing needed services to companies or businesses in Tennessee, and for a specified period of authorized stay, the knowledge examinations may also be administered in such languages as may be determined by the Department of Safety with assistance from the Department of Economic and Community Development.

SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.

On motion, Amendment No. 2 was adopted.

Senator Barnes moved to amend as follows:

AMENDMENT NO. 3

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-50-322, is amended by adding the following language as new subsection (j):

(j) Except as noted herein, all examinations administered to applicants for a driver license, intermediate driver license, temporary driver license, or temporary intermediate driver license shall be in English. For persons whose presence in the United States has been approved and authorized and who are in the country legally, such examinations may also be administered in such languages as may be determined by the Department of Safety with assistance from the Department of Economic and Community Development.

SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.

Senator Ketron moved that Amendment No. 3 go to the table, which motion prevailed by the following vote:

Ayes 18
Noes 14

Senators voting aye were: Beavers, Black, Bunch, Burchett, Crowe, Faulk, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Southerland, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--18.

Senators voting no were: Barnes, Berke, Burks, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Kyle, Marrero, Stewart and Tate--14.

On motion of Senator Tracy, Amendment No. 1 was withdrawn.

Thereupon, **Senate Bill No. 63**, as amended, passed its third and final consideration by the following vote:

Ayes 22
Noes 10

Senators voting aye were: Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Herron, Jackson, Johnson, Ketron, McNally, Norris, Overbey, Southerland, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--22.

Senators voting no were: Barnes, Ford, Harper, Haynes, Henry, Kelsey, Kyle, Marrero, Stewart and Tate--10.

A motion to reconsider was tabled.

Senator Jackson moved that **Senate Bill No. 94** be placed at the heel of the Calendar for today, which motion prevailed.

Senator Jackson moved that **Senate Bill No. 966** be placed on the Calendar for Thursday, May 13, 2010, which motion prevailed.

Senate Bill No. 1325 -- Traffic Safety -- As introduced, requires that all trailers, semi-trailers, and pole trailers having a gross vehicle weight rating of 10,000 pounds or more must comply with safety rules and regulations of the Department of Safety. Amends TCA Title 55, Chapter 4, Part 1 and Title 65, Chapter 15, Part 1.

Senator Tracy moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 65-15-113(f), is amended by deleting the first sentence in its entirety and by substituting instead the following language:

Notwithstanding the provisions of this chapter to the contrary, 49 CFR Parts 390-397, shall not apply to commercial motor vehicles operated in intrastate commerce to transport property, that have a gross vehicle weight rating or gross combination weight rating of twenty-six thousand pounds (26,000 lbs.) or less; provided, that a Tennessee highway patrol officer with Level I training, having probable cause to believe such a commercial motor vehicle is being operated with unsafe loading or mechanical conditions, may stop such motor vehicle for inspection. If such motor vehicle is determined to be operated with unsafe loading or mechanical conditions, no citation may be issued, however, the officer shall implement out-of-service requirements as set forth in the commercial vehicle safety alliance out-of-service criteria.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted by the following vote:

Ayes	27
Noes	0
Present, not voting . . .	5

Senators voting aye were: Barnes, Berke, Burchett, Burks, Crowe, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--27.

Senators present and not voting were: Beavers, Black, Bunch, Faulk and Kelsey--5.

Thereupon, **Senate Bill No. 1325**, as amended, passed its third and final consideration by the following vote:

Ayes 26
Noes 0
Present, not voting . . . 5

Senators voting aye were: Barnes, Berke, Burchett, Burks, Crowe, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Ketron, Kyle, Marrero, McNally, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--26.

Senators present and not voting were: Beavers, Black, Bunch, Faulk and Kelsey--5.

A motion to reconsider was tabled.

Senator Finney moved that **Senate Bill No. 1589** be rereferred to the Committee on Calendar, which motion prevailed.

Senate Bill No. 1751 -- Criminal Offenses -- As introduced, creates new criminal offenses of unlawful restraint, compelling prostitution, and compelling production of pornography and establishes civil liability for trafficking offenses. Amends TCA Title 39 and Title 40.

On motion of Senator Crowe, Amendment No. 1 was withdrawn.

Senator Beavers moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. (a) The Select Committee on Children and Youth is directed to study human sex trafficking, the improvements that should be made to existing laws relative to human sex trafficking and the impact of human sex trafficking on children and youth in this state. The committee shall study all issues associated with human sex trafficking and shall:

(1) Collect and organize available data, if any, on the nature and extent of human sex trafficking in this state;

(2) Examine collaborative models between governmental and nongovernmental organizations for protecting victims of human sex trafficking;

(3) Examine the progress of this state in preventing human sex trafficking;

(4) Examine the problems associated with identifying victims and establishing adequate sanctuary and rehabilitation opportunities for victims of human sex trafficking;

(5) Analyze current laws for their adequacy in protecting minor victims of human sex trafficking and, if necessary, recommend revisions to such laws that specifically address protecting minor victims of human sex trafficking;

(6) Identify available federal, state and local programs that provide services to victims of human sex trafficking, including health care, human services, housing, education, legal assistance, job training or preparation, interpreting services, English as a second language classes, voluntary repatriation and victim's compensation; and assess the need for additional services, including shelter services for human sex trafficking victims;

(7) Evaluate existing and potential programs to increase public awareness of human sex trafficking;

(8) Analyze existing state criminal statutes for their adequacy in preventing human sex trafficking and, if necessary, recommend revisions to such laws or the enactment of new laws that specifically define and address human sex trafficking;

(9) Consult with governmental and nongovernmental organizations in developing recommendations to strengthen state and local efforts to prevent human sex trafficking, protect and assist victims of human sex trafficking and prosecute human sex traffickers, and make such recommendations, if any; and

(10) Examine any other issues relative to deterring and preventing human sex trafficking in Tennessee.

(b) The Select Committee on Children and Youth shall timely report its findings and recommendations, including any proposed legislation, to the Judiciary Committees of the House of Representatives and the Senate no later than March 1, 2011.

(c) All appropriate state and local agencies shall provide assistance to the Select Committee on Children and Youth upon request of the chair.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.

On motion, Amendment No. 2 was adopted.

Thereupon, **Senate Bill No. 1751**, as amended, passed its third and final consideration by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Overbey, Southerland, Stewart, Tate, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

A motion to reconsider was tabled.

Senate Bill No. 1754 -- Appropriations -- As introduced, appropriates $300,000 to the Earth Sciences Department at the University of Memphis for the study of ecological tourism.

Senator McNally moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. The Tennessee higher education commission shall assess and study the feasibility of establishing a program of instruction in ecological tourism in public universities. The commission shall report its findings and conclusions to the Education Committees of the House of Representatives and the Senate by February 1, 2011.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 1754**, as amended, passed its third and final consideration by the following vote:

Ayes	26
Noes	0
Present, not voting . . .	3

Senators voting aye were: Barnes, Berke, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Overbey, Southerland, Stewart, Tate, Woodson, Yager and Mr. Speaker Ramsey--26.

Senators present and not voting were: Beavers, Black and Watson--3.

A motion to reconsider was tabled.

Senator Watson moved that **Senate Bill No. 2472** be placed on the Calendar for Thursday, May 13, 2010, which motion prevailed.

Senate Bill No. 2485 -- Highway Signs -- As introduced, provides for erection of directional signs to U.S. Chess Federation on Interstate 40 in Cumberland County at Exit 320.

On motion, Senate Bill No. 2485 was made to conform with **House Bill No. 2507**.

On motion, House Bill No. 2507, on same subject, was substituted for Senate Bill No. 2485.

On motion of Senator McNally, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2507** passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senate Bill No. 2487 -- Firefighters -- As introduced, exempts firefighters located within the unincorporated area of Claiborne County and any municipality located within Claiborne County from the minimum training requirements unless the governing body of a municipality or the county adopts a resolution to apply such requirements within their respective jurisdictional boundaries. Amends TCA Section 4-24-112.

On motion, Senate Bill No. 2487 was made to conform with **House Bill No. 2492**.

On motion, House Bill No. 2492, on same subject, was substituted for Senate Bill No. 2487.

Senator Ketron moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-24-112(n), is amended by inserting the following language in the county exclusion table:

not less than	nor more than
17,700	17,775

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 2492**, as amended, passed its third and final consideration by the following vote:

Ayes	24
Noes	4

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Henry, Herron, Johnson, Kelsey, Kyle, Marrero, McNally, Southerland, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--24.

Senators voting no were: Ford, Harper, Haynes and Ketron--4.

A motion to reconsider was tabled.

Senate Bill No. 2545 -- Criminal Offenses -- As introduced, creates new criminal offenses prohibiting felon from possessing a radio capable of receiving emergency voice transmissions; a person possessing such a radio during commission of crime; and person using information from radio to facilitate felony or interfere with emergency transmissions. Amends TCA Title 39, Chapter 13, Part 6.

On motion, Senate Bill No. 2545 was made to conform with **House Bill No. 2506**.

On motion, House Bill No. 2506, on same subject, was substituted for Senate Bill No. 2545.

On motion of Senator Beavers, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2506** passed its third and final consideration by the following vote:

Ayes 28
Noes 1
Present, not voting . . . 1

Senators voting aye were: Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--28.

Senator voting no was: Marrero--1.

Senator present and not voting was: Harper--1.

A motion to reconsider was tabled.

Senate Bill No. 2565 -- Municipal Government -- As introduced, clarifies the authority of the legislative body of a municipality to approve the acquisition of a public facility that had been improved or constructed by a third party and to issue revenue bonds to finance all costs and expenses incurred in connection with the acquisition of the facilities. Amends TCA Title 7, Chapter 32 and Title 7, Chapter 33.

On motion, Senate Bill No. 2565 was made to conform with **House Bill No. 2703**.

On motion, House Bill No. 2703, on same subject, was substituted for Senate Bill No. 2565.

On motion of Senator Ketron, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2703** passed its third and final consideration by the following vote:

Ayes 31
Noes 0
Present, not voting . . . 1

Senators voting aye were: Barnes, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

Senator present and not voting was: Beavers--1.

A motion to reconsider was tabled.

Senator Burks moved that **Senate Bill No. 2665** be placed on the Calendar for Thursday, May 13, 2010, which motion prevailed.

Senate Bill No. 2703 -- Local Government, General -- As introduced, prohibits law enforcement officers from being punished or rewarded according to number of traffic citations issued or collected upon. Amends TCA Title 39, Chapter 16 and Title 55, Chapter 8.

On motion, Senate Bill No. 2703 was made to conform with **House Bill No. 2952**.

On motion, House Bill No. 2952, on same subject, was substituted for Senate Bill No. 2703.

Senator Beavers moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting subsection (a) of the amendatory language in Section 1 of the bill and substituting instead the following:

(a) A political subdivision or any agency of this state may not establish or maintain, formally or informally, a plan to evaluate, promote, compensate, or discipline a law enforcement officer solely by the issuance of a predetermined or specified number of any type or combination of types of traffic citations.

On motion, Amendment No. 1 was adopted.

Senator Beavers moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting subsection (c) in the amendatory language of Section 1 of the bill in its entirety and redesignating the subsequent subsections accordingly.

On motion, Amendment No. 2 was adopted.

Thereupon, **House Bill No. 2952**, as amended, passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senate Bill No. 2708 -- Domestic Violence -- As introduced, requires persons served with an order of protection to stay away for 12 hours from person requesting such order. Amends TCA Title 36, Chapter 3, Part 6.

On motion, Senate Bill No. 2708 was made to conform with **House Bill No. 2780**.

On motion, House Bill No. 2780, on same subject, was substituted for Senate Bill No. 2708.

On motion of Senator Beavers, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 2780** passed its third and final consideration by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Black, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

A motion to reconsider was tabled.

Mr. Speaker Ramsey moved that **Senate Bill No. 2795** be placed on the Calendar for Thursday, May 13, 2010, which motion prevailed.

Senator Norris moved that **Senate Bill No. 2810** be placed on the Calendar for Thursday, May 13, 2010, which motion prevailed.

Senator Norris moved that **Senate Bill No. 2811** be placed on the Calendar for Thursday, May 13, 2010, which motion prevailed.

Senate Bill No. 2908 -- State Employees -- As introduced, requires state insurance committee to provide opportunity for eligible local education employees to participate in the long-term care benefits program. Amends TCA Title 8, Chapter 27.

Senator McNally moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 8-27-302, is amended by adding the following language as a new item (a)(2)(C):

(C)(i) The committee shall develop a mechanism to provide an opportunity for eligible local education employees to enroll in a long-term care benefits program with the coverage to be effective January 1, 2012. The committee is authorized to determine the benefits package, funding mechanism, administrative procedures, eligibility provisions and rules relating to the program. Local education agencies electing to offer access to this coverage for their employees may be required to provide a payroll deduction capability for the collection of premiums and the Tennessee Consolidated Retirement System may be required to deduct monthly premiums for members participating in the long-term care plan. The long-term care benefits program

established in this item may be combined with the program for state employees authorized in Tennessee Code Annotated, Section 8-27-210, or may be established as a separate program.

(ii) The Department of Finance and Administration shall report its recommendations concerning this authorization to the Council on Pensions and Insurance on or before November 1, 2010.

SECTION 2. Tennessee Code Annotated, Section 8-27-207, is amended by adding the following language as a new subsection (m):

(m)(1) The Local Government Insurance Committee shall develop a mechanism to provide an opportunity for eligible local government employees to enroll in a long-term care benefits program with the coverage to be effective January 1, 2012. The committee is authorized to determine the benefits package, funding mechanism, administrative procedures, eligibility provisions and rules relating to the program. Qualified agencies electing to offer access to this coverage for their employees may be required to provide a payroll deduction capability for the collection of premiums and the Tennessee Consolidated Retirement System may be required to deduct monthly premiums for members participating in the long-term care plan. The long-term care benefits program established in this subsection may be combined with the program for state employees authorized in Tennessee Code Annotated, Section 8-27-210, and/or the program for employees of local education agencies authorized in Tennessee Code Annotated, Section 8-27-302, or may be established as a separate program.

(2) The Department of Finance and Administration shall report to the Council on Pensions and Insurance its recommendations concerning this authorization on or before November 1, 2010.

SECTION 3. This act shall take effect July 1, 2010, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 2908**, as amended, passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senate Bill No. 3003 -- Adoption -- As introduced, assesses an administrative fee of $50.00 if a defendant in a termination of parental rights case is provided with court-appointed counsel. Amends TCA Section 40-14-103.

On motion, Senate Bill No. 3003 was made to conform with **House Bill No. 3428**.

On motion, House Bill No. 3428, on same subject, was substituted for Senate Bill No. 3003.

Senator Beavers moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting the amendatory language of Section 2 and substituting instead the following:

> Failure to pay the administrative fee assessed by the court shall not reduce or in any way affect the rendering of services by court-appointed counsel; provided, however, that the defendant's willful failure to pay the fee may be considered by the court as an enhancement factor when imposing sentence if the defendant is found guilty of criminal conduct, and may also be considered by the court as evidence of the defendant's financial responsibility, or lack thereof, in a determination of the best interest of the child.

On motion, Amendment No. 1 was adopted.

Thereupon, **House Bill No. 3428**, as amended, passed its third and final consideration by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Jackson, Johnson, Kelsey, Ketron, Marrero, McNally, Norris, Overbey, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--29.

A motion to reconsider was tabled.

Senate Bill No. 3094 -- Census -- As introduced, adjusts terminology to reflect data collected through the American Community Survey instead of the census long form questionnaire. Amends TCA Section 1-3-105; Section 7-59-303; Section 13-23-103; Section 40-28-202; Section 67-5-705 and Section 68-202-601.

On motion, Senate Bill No. 3094 was made to conform with **House Bill No. 3153**.

On motion, House Bill No. 3153, on same subject, was substituted for Senate Bill No. 3094.

On motion of Senator Beavers, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 3153** passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--31.

A motion to reconsider was tabled.

Senator Faulk moved that **Senate Bill No. 3121** be placed on the Calendar for Thursday, May 13, 2010, which motion prevailed.

Senate Bill No. 3134 -- Taxes -- As introduced, revises the tax on unauthorized substances based on the decision of the Tennessee Supreme Court in *Waters v. Farr* to impose the tax on the dealer of unauthorized substances. Amends TCA Title 67, Chapter 4, Part 28.

On motion, Senate Bill No. 3134 was made to conform with **House Bill No. 3164**.

On motion, House Bill No. 3164, on same subject, was substituted for Senate Bill No. 3134.

On motion of Senator McNally, Amendment No. 1 was withdrawn.

Thereupon, **House Bill No. 3164** passed its third and final consideration by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

Senator Overbey moved that **Senate Bill No. 3155** be placed on the Calendar for Thursday, May 13, 2010, which motion prevailed.

Senate Bill No. 3169 -- DNA and Genetic Testing -- As introduced, requires TBI to maintain a DNA database of certain juvenile sexual offenders and adds an adjudication of delinquency for an act which if committed as an adult would constitute aggravated rape of a child to the list of acts for which a court shall require a juvenile to submit a DNA sample. Amends TCA Title 38; Title 39 and Title 40.

On motion, Senate Bill No. 3169 was made to conform with **House Bill No. 3196**.

On motion, House Bill No. 3196, on same subject, was substituted for Senate Bill No. 3169.

House Bill No. 3196 passed its third and final consideration by the following vote:

Ayes 30
Noes 1

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

Senator voting no was: Marrero--1.

A motion to reconsider was tabled.

Senator Watson moved that **Senate Bill No. 3186** be rereferred to the Committee on Calendar, which motion prevailed.

Senate Bill No. 3222 -- Driver Licenses -- As introduced, requires circuit court and criminal court clerks to establish driver license recovery plan for certain persons with suspended driver licenses. Amends TCA Title 55, Chapter 12, Part 1 and Title 55, Chapter 50, Part 5.

Senator Beavers moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Section 55-50-502, is amended by adding the following language as a new subsection:

(l)(1) The provisions of this subsection (l) shall apply only in any county having a metropolitan form of government with a population of more than five hundred thousand (500,000) according to the 2000 federal census or any subsequent federal census.

(2) A person whose license has been suspended, pursuant to subdivision (a)(1)(H) or (a)(1)(I), may apply to the circuit court clerk or criminal court clerk of each county, as appropriate, to allow for payment of any outstanding judgment resulting from failure to pay state or county fines or costs, older than five (5) years after the date of disposition, at a reduced rate of fifty percent (50%). The circuit court clerk or criminal court clerk, as appropriate, shall allow such person to pay such outstanding judgment, in a single payment, at a reduced rate of fifty percent (50%) during the first six (6) fiscal months of the year.

(3) Notwithstanding any law to the contrary, the amount of any outstanding judgment or other fine or cost that is waived pursuant to subdivision (l)(2) shall be allocated to be borne by all entities otherwise entitled to such fees or costs pro rata in the same proportion such fee or cost would otherwise be distributed.

(4) The department is authorized to reinstate a person's driving privileges when the person provides the department with certification from the circuit court clerk or criminal court clerk of any county that the person has paid pursuant to this subsection (l) and has satisfied all other laws relating to the issuance and restoration of a driver's license.

SECTION 2. Tennessee Code Annotated, Section 55-50-502(d)(2), is amended by adding the following language to the end of the present language:

Notwithstanding Section 55-50-303(b)(2), the fines and costs for a conviction of driving while suspended, when the conviction was a result of a suspension pursuant to subdivision (a)(1)(H) or (a)(1)(I), may be included in such payment plan, subject to the approval of the court.

SECTION 3. This act shall take effect July 1, 2010, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 3222**, as amended, passed its third and final consideration by the following vote:

Ayes	24
Noes	5
Present, not voting . . .	1

Senators voting aye were: Barnes, Berke, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Kyle, Marrero, McNally, Overbey, Stewart, Tate, Woodson, Yager and Mr. Speaker Ramsey--24.

Senators voting no were: Beavers, Black, Ketron, Tracy and Watson--5.

Senator present and not voting was: Bunch--1.

A motion to reconsider was tabled.

Senate Bill No. 3267 -- Child Abuse -- As introduced, enacts the "Tennessee Child Abuser Registration Act of 2010". Amends TCA Title 37; Title 39 and Title 40.

Senator Beavers moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 37-1-403(b), is amended by deleting the subsection in its entirety and substituting instead the following:

(b) The report shall include, to the extent known by the reporter, the name, address, telephone number and age of the child, the name, address, and telephone number of the person responsible for the care of the child, and the facts requiring the report. The report may include any other pertinent information.

SECTION 2. Tennessee Code Annotated, Section 37-1-403(c)(1), is amended by deleting the word "immediately" and substituting instead the language "immediately upon the receipt of such information,".

SECTION 3. Tennessee Code Annotated, Section 37-1-403(c), is amended by adding the following as a new subsection:

(3)(A) If the department receives information containing references to alleged human trafficking or child pornography which does or does not result in an investigation by the department, the department shall notify the appropriate law enforcement agency immediately upon receipt of such information.

(B) If the department initiates an investigation of severe child abuse, including, but not limited to, child sexual abuse, the department shall notify the appropriate local law enforcement agency immediately upon assignment of such case to a department child protective services worker.

(C) Both the department and law enforcement shall maintain a log of all such reports of such information received and confirmation that the information was sent to the appropriate party, pursuant to this subdivision (c)(3).

SECTION 4. Tennessee Code Annotated, Section 37-1-403(i), is amended by adding the following as a new subdivision (1) and renumbering current subdivision (1) and the subsequent subdivisions accordingly:

(1) Any school official, personnel, employee or member of the board of education who is aware of a report or investigation of employee misconduct on the part of any employee of the school system that in any way involves known or alleged child abuse, including, but not limited to, child physical or sexual abuse or neglect, shall immediately upon knowledge of such information notify the Department of Children's Services or anyone listed in subdivision (a)(2) of the abuse or alleged abuse.

SECTION 5. This act shall take effect upon becoming law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Thereupon, **Senate Bill No. 3267**, as amended, passed its third and final consideration by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

MOTION

Senator Norris moved that Rule 19 be suspended for the purpose of considering the Message Calendar next, which motion prevailed.

MESSAGE CALENDAR

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2465 -- Sunset Laws -- As introduced, extends alcoholic beverage commission, June 30, 2010. Amends TCA Title 4, Chapter 29 and Title 57, Chapter 1.

HOUSE AMENDMENT NO. 1

AMEND by deleting the following language from the bill, as amended:

SECTION __. Tennessee Code Annotated, Section 57-1-102, is amended by designating the existing language as subsection (a) and by adding the following language as subsection (b):

(b)(1) Notwithstanding the provisions of § 3-6-304 or any other law to the contrary, and in addition to all other requirements for membership on the commission:

(A) Any person registered as a lobbyist pursuant to the registration requirements of Title 3, Chapter 6, who is subsequently appointed or otherwise named as a member of the commission shall terminate all employment and business association as a lobbyist with any entity whose business endeavors or professional activities are regulated by the commission, prior to serving as a member of the commission. The provisions of this subdivision (1)(A) shall apply to all persons appointed or otherwise named to the commission after July 1, 2010;

(B) No person who is a member of the commission shall be permitted to register or otherwise serve as a lobbyist pursuant to Title 3, Chapter 6, for any entity whose business endeavors or professional activities are regulated by the commission during such person's period of service as a member of the commission. The provisions of this subdivision (1)(B) shall apply to all persons appointed or otherwise named to the commission after July 1, 2010, and to all persons serving on the commission on such date who are not registered as lobbyists; and

(C) No person who serves as a member of the commission shall be employed as a lobbyist by any entity whose business endeavors or professional activities are regulated by the commission for one (1) year following the date such person's service on the commission ends. The provisions of this subdivision (1)(C) shall apply to members serving on the commission as of July 1, 2010, and to all members appointed to the commission subsequent to such date.

(2) A person who violates the provisions of this subsection shall be subject to the penalties prescribed in Title 3, Chapter 6.

(3) The bureau of ethics and campaign finance is authorized to promulgate rules and regulations to effectuate the purposes of this subsection. All such rules and regulations shall be promulgated in accordance with the

Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, and in accordance with the procedure for initiating and proposing rules by the ethics commission to the bureau of ethics and campaign finance as prescribed in § 4-55-103.

Senator Watson moved that the Senate nonconcur in House Amendment No. 1 to **Senate Bill No. 2465**, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 2712 -- Consumer Protection -- As introduced, prohibits the advertising, promotion, and sale of international driver's licenses; establishes that such practices and other related acts violate the Tennessee Consumer Protection Act; imposes certain civil penalties on such violations. Amends TCA Title 47.

HOUSE AMENDMENT NO. 1

AMEND by deleting subdivision (46)(B)(i) in Section 1 and substituting instead the following:

(i) "International driver's license" means a document that purports to confer a privilege to operate a motor vehicle on the streets and highways in this state and is not issued by a governmental entity. Such document may be an imitation of an international driving permit.

Senator Kelsey moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 2712.**

Senator Kelsey moved that **Senate Bill No. 2712** be moved three places down on the Message Calendar for today, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3161 -- Alcoholic Offenses -- As introduced, decreases amount of revenue art gallery must receive from sale of artwork from 90 percent to 80 percent to be allowed to serve wine to patrons of the art gallery at no charge. Amends TCA Title 57, Chapter 4.

HOUSE AMENDMENT NO. 3

AMEND by adding the following as a new section immediately preceding the effective date section and renumbering the effective date section accordingly:

SECTION __. Tennessee Code Annotated, Section 57-4-102(18), is amended by adding the following as new, appropriately designated subdivisions thereto:

(_) "Historic performing arts center" also means a facility possessing each of the following characteristics:

(i) Was opened in 1921;

(ii) Is on the National Register of Historic Places;

(iii) Is located on Broad Street;

(iv) Provides programs of cultural, civic, and educational interest, including, but not limited to, operas and musical concerts;

(v) Is owned by a municipal or county government, or nonprofit, tax exempt, charitable organization. Alcoholic beverages shall only be sold at the center before, during or after performances; and

(vi) Is located in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900) according to the 2000 federal census or any subsequent federal census.

(_) "Historic performing arts center" also means a facility possessing each of the following characteristics:

(i) Was opened in 1924;

(ii) Was originally designed as a municipal auditorium and all-purpose exhibition hall;

(iii) Is located on McCallie Avenue;

(iv) Is owned by a municipal or county government, or nonprofit, tax exempt, charitable organization. Alcoholic beverages shall only be sold at the center before, during or after performances;

(v) Provides programs of cultural, civic, and educational interest, including, but not limited to, stage plays and musical concerts; and

(vi) Is located in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900) according to the 2000 federal census or any subsequent federal census.

Senator Johnson moved that the Senate concur in House Amendment No. 3 to **Senate Bill No. 3161**, which motion prevailed by the following vote:

Ayes 25
Noes 5

Senators voting aye were: Barnes, Berke, Black, Burchett, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Stewart, Tate, Woodson, Yager and Mr. Speaker Ramsey--25.

Senators voting no were: Beavers, Bunch, Burks, Herron and Southerland--5.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3430 -- Zoning -- As introduced, allows multifamily residential property to destroy present facilities and reconstruct new facilities even after a change in zoning. Amends TCA Title 13.

HOUSE AMENDMENT NO. 1

AMEND by deleting the language of subdivision (2) in Section 1 of the printed bill in its entirety and substituting instead the following language:

(2)(A) Multifamily residential establishments (whether used as owner-occupied property or rental property) which were permitted to operate under zoning regulations or exceptions thereto immediately preceding a change in zoning shall be allowed to reconstruct new facilities necessary to the conduct of such multifamily residential establishment subsequent to the zoning change, in the event of damage (whether partial or complete) by involuntary fire or wind damage or other natural disaster.

(B) If any such new facilities exceed the original height, density, setback, or square-footage of the original facilities in existence immediately prior to the damage, then the new facilities shall constitute a change in the use of the land, and any protections provided hereunder shall be forfeited.

(C) If any such new facilities do not exceed the original height, density, setback, or square-footage of the original facilities in existence immediately prior to the damage, then the new facilities shall constitute a continuation of the use of the land immediately prior to the damage, and any protections provided hereunder shall not be forfeited.

(D) Whenever any ordinance enacted under authority of this chapter establishes stricter terms regarding the amount of partial damage that may be allowed without forfeiture of these protections, then the provisions of any such ordinance shall govern.

(E) New facilities shall comply with all architectural design standards required under current zoning regulations and be consistent with the architectural context of the immediate and adjacent block faces.

Senator Henry moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 3430**, which motion prevailed by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3602 -- Boards and Commissions -- As introduced, creates position of executive director within the Commission on Firefighting Personnel Standards and Education; specifies areas of expertise from which members of the commission are to be appointed. Amends TCA Section 4-24-104.

HOUSE AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-24-104, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The commission shall be composed of nine (9) members, appointed by the governor as provided in this section. The Commissioner of Commerce and Insurance and the executive director of the Fire Service and Codes Enforcement Academy shall be ex officio nonvoting members.

(b)(1) Each appointed member, with the exception of volunteer members, shall be qualified by experience in the area of fire protection and related fields; meet the minimum training requirements of Title 4, Chapter 24, Section 112; be a certified firefighter II or above, and be an active or retired member of a fire department currently participating in the commission's certification training program.

(2) Each appointed volunteer member shall be qualified by experience; extinguish and control fires and fire-related emergencies as a member of a volunteer fire department recognized under Title 68, Chapter 102, Part 3; meet the minimum training requirements of Title 4, Chapter 24, Section 112; currently serve or has served as a training officer for a fire department; and not be considered a full-time employee of the fire department that they are representing.

(c)(1) Three (3) members appointed to the commission shall be selected from candidates submitted collectively by the Tennessee Fire Chief's Association, the Tennessee Fire Safety Inspectors Association, and the Tennessee Fireman's Association.

(2) Three (3) members appointed to the commission shall be selected from candidates submitted by the governing body of the Tennessee Professional Firefighters Association.

(3) Three (3) members appointed to the commission shall be appointed by the governor. One appointment shall be a career firefighter and one appointment shall be a volunteer firefighter.

(4) The appointments shall be made in accordance with the following procedure:

(A) Within two (2) weeks after the occurrence of a vacancy in the office of any commissioner caused by death, resignation, disability, or forfeiture of office, and no later than thirty (30) days prior to the expiration of the term of office of any incumbent commissioner, the chair of the commission shall notify the appropriate association of the vacancy or expiration of the term when the vacancy or expiration results in an opening for that particular association to make recommendations for an appointment.

(B) Within twenty-one (21) days after the receipt of such notice the governing body of the association may submit to the governor a list of three (3) qualified nominees to fill such vacancy, in order of preference;

(C) Within twenty-one (21) days after the submission of the list or after the time for submission of the list has expired, the governor may appoint one (1) of the nominees for the remainder of the term, or for the next term, as the case may be; provided, that the governor may reject all nominees by written objection mailed to the association within the twenty-one (21) day period, in which event the governing board of the association shall have twenty-one (21) days from receipt of the written objection within which to submit a second list of three (3) appointees in order of preference, and the governor may likewise reject all such nominees by written objection in the manner provided in this subdivision (c)(4)(C), in which event the procedure of objection by the governor and certification of additional names by the governing body of the association shall continue until the position is filled;

(D) In the event the governor fails to exercise the governor's executive power or power to object within the applicable twenty-one-day period, then the first name listed on the last list of recommended nominees shall be the appointee by operation of law; and

(E) In the event the governing body of the association fails to submit a list of qualified nominees as provided in this subsection (c), the governor may proceed to appoint a person meeting the qualifications for the position.

(d) In making appointments to the commission, the governor shall strive to ensure that at least one (1) person appointed to serve on the commission is sixty (60) years of age or older and that at least one (1) person appointed to serve on the commission is a member of a racial minority.

(e) Commission members shall be appointed for six-year terms.

(f) The governor shall fill by appointment vacancies occurring during terms.

(g) Each grand division of the state shall be represented on the commission.

(h) A member whose term expires shall continue to serve on the commission until a new member is appointed.

(i) With the exception of the executive director of the Fire Service and Codes Enforcement Academy or the executive director's designee, who serves as a nonvoting member and whose attendance does not count towards a quorum, no state employee, including full-time, and part-time employees, shall be appointed to serve on the commission. This subsection (i) shall not affect the terms of the members of the commission appointed prior to April 11, 2007, but all appointments made on or after April 11, 2007, shall meet the requirements established in this subsection (i).

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.

Senator Ketron moved that the Senate nonconcur in House Amendment No. 1 to **Senate Bill No. 3602**, which motion prevailed.

HOUSE AMENDMENT NO. 2

AMEND by adding the following language to the end of subdivision (1) of subsection (c) of Section 4-24-104 of Section 1, as amended:

One (1) of the members appointed pursuant to this subdivision shall be a volunteer firefighter.

Senator Ketron moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 3602**, which motion prevailed by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Black, Burchett, Burks, Crowe, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--30.

A motion to reconsider was tabled.

FURTHER ACTION ON SENATE BILL NO. 2712

Senator Kelsey moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 2712**, which motion prevailed by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 3806 -- Insurance, Health, Accident -- As introduced, enacts the "Tennessee Health Carrier Grievance and External Review Procedure Act". Amends TCA Title 56.

Senator Ford declared Rule 13 on **Senate Bill No. 3806**.

HOUSE AMENDMENT NO. 1

AMEND by deleting the language after the enacting clause and by susbstituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 56, is amended by adding Section 2 through Section 26 as a newly designated chapter thereto.

SECTION 2. This chapter shall be known and may be cited as the "Tennessee Health Carrier Grievance and External Review Procedure Act". The purpose of this chapter is to provide standards for the establishment and maintenance of procedures by health carriers to assure that covered persons and healthcare providers have the opportunity for the appropriate resolution of grievances, as defined in this chapter.

SECTION 3. For purposes of this chapter, unless the context otherwise requires:

(1) "Adverse determination" means:

(A) A determination by a health carrier or its designee utilization review organization that, based upon the information provided, a request for a benefit under the health carrier's health benefit plan does not meet the health carrier's requirements for medical necessity, appropriateness, healthcare setting, level of care or effectiveness and the requested benefit is therefore denied, reduced or terminated or payment is not provided or made, in whole or in part, for the benefit;

(B) The denial, reduction, termination or failure to provide or make payment, in whole or in part, for a benefit based on a determination by a health carrier of a covered person's eligibility to participate in the health carrier's health benefit plan; or

(C) Any prospective review or retrospective review determination that denies, reduces, or terminates or fails to provide or make payment for, in whole or in part, a benefit;

(2) "Aggrieved person" means:

(A) A healthcare provider;

(B) A covered person; or

(C) A covered person's authorized representative.

(3) "Authorized representative" means:

(A) A person to whom a covered person has given express written consent to represent the covered person for purposes of this chapter;

(B) A person authorized by law to provide substituted consent for a covered person;

(C) A family member of the covered person or the covered person's treating healthcare professional when the covered person is unable to provide consent;

(D) A healthcare professional when the covered person's health benefit plan requires that a request for a benefit under the plan be initiated by the healthcare professional; or

(E) In the case of an urgent care request, a healthcare professional with knowledge of the covered person's medical condition;

(4) "Clinical peer" means a physician or other healthcare professional who holds a non-restricted license in a state of the United States and in the same or similar specialty that would typically manage the medical condition, procedure or treatment under review;

(5) "Clinical review criteria" means the written screening procedures, decision abstracts, clinical protocols and practice guidelines used by the health carrier to determine the medical necessity and appropriateness of healthcare services;

(6) "Closed plan" means a managed care plan that requires covered persons to use participating providers under the terms of the managed care plan or the plan will not provide covered benefits to the covered person;

(7) "Commissioner" means the Commissioner of Commerce and Insurance;

(8) "Covered benefits" or "benefits" means those healthcare services to which a covered person is entitled under the terms of a health benefit plan;

(9) "Covered person" means a policyholder, subscriber, enrollee or other individual participating in a health benefit plan;

(10) "Emergency medical condition" means the sudden and, at the time, unexpected onset of a health condition that requires immediate medical attention, where failure to provide medical attention would result in serious impairment to bodily functions, serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy;

(11) "Emergency services" means healthcare items and services furnished or required to evaluate and treat an emergency medical condition;

(12) "External review organization" means an entity that conducts independent external reviews of adverse determinations and final adverse determinations of a health carrier;

(13) "Facility" means an institution licensed under Title 68 providing healthcare services or a healthcare setting, including but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation;

(14) "Final adverse determination" means an adverse determination involving a covered benefit that has been upheld by a health carrier at the completion of the health carrier's internal grievance process procedures as set forth in this chapter.

(15) "Grievance" means a written appeal of an adverse determination or final adverse determination submitted by or on behalf of a covered person regarding:

(A) Availability, delivery or quality of healthcare services regarding an adverse determination;

(B) Claims payment, handling or reimbursement for healthcare services;

(C) Matters pertaining to the contractual relationship between a covered person and a health carrier; or

(D) Matters pertaining to the contractual relationship between a healthcare provider and a health carrier;

(16) "Health benefit plan" means a policy, contract, certificate or agreement offered or issued by a health carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of healthcare services;

(17) "Healthcare professional" means a physician or other healthcare practitioner licensed, accredited or certified to perform specified healthcare services consistent with state law;

(18) "Healthcare provider" or "provider" means a healthcare professional or a facility;

(19) "Healthcare services" means services for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or disease;

(20) "Health carrier" means an entity subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of healthcare services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits or healthcare services;

(21) "Managed care plan" means a health benefit plan that requires a covered person to use, or creates incentives, including financial incentives, for a covered person to use healthcare providers managed, owned, under contract with or employed by the health carrier. "Managed care plan" includes:

(A) A closed plan, as defined in subdivision (6); and

(B) An open plan, as defined in subdivision (26);

(22) "Medical or scientific evidence" means evidence found in the following sources, provided that subdivisions (A) through (B) shall be considered to have more evidentiary value than subdivision (E) and subdivision (E), when considered solely and in the absence of subdivisions (A) through (B), shall not be sufficient to establish medical or scientific evidence for purposes of this chapter:

(A) Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;

(B) Peer-reviewed medical literature, including literature relating to therapies reviewed and approved by a qualified institutional review board, biomedical compendia and other medical literature that meet the criteria of the National Institutes of Health's Library of Medicine for indexing in Index Medicus (Medline) and Elsevier Science Ltd. for indexing in Excerpta Medicus (EMBASE);

(C) Medical journals recognized by the secretary of health and human services under § 1861(t)(2) of the federal Social Security Act, codified in 42 U.S.C.
§ Chapter 7.

(D) The following standard reference compendia:

(i) The American Hospital Formulary Service – Drug Information;

(ii) Drug Facts and Comparisons;

(iii) The American Dental Association Accepted Dental Therapeutics;

(iv) The United States Pharmacopoeia – Drug Information; or

(E) Findings, studies or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes, including:

(i) The Federal Agency for Healthcare Research and Quality;

(ii) The National Institutes of Health;

(iii) The National Cancer Institute;

(iv) The National Academy of Sciences;

(v) The Centers for Medicare & Medicaid Services;

(vi) The Federal Food and Drug Administration; and

(vii) Any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of healthcare services;

(23) "Medically necessary" or "medical necessity" means healthcare services that a physician, exercising prudent clinical judgment, would provide to a patient for the purpose of preventing, evaluating, diagnosing or treating an illness, injury, disease or its symptoms, and that are:

(A) In accordance with generally accepted standards of medical practice;

(B) Clinically appropriate, in terms of type, frequency, extent, site and duration; and considered effective for the patient's illness, injury or disease; and

(C) Not primarily for the convenience of the patient, physician, or other healthcare provider; and

(D) Not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of that patient's illness, injury or disease;

(24) "NAIC" means the National Association of Insurance Commissioners;

(25) "Network" means the group of participating providers providing services to a managed care plan;

(26) "Open plan" means a managed care plan, other than a closed plan, that provides incentives, including financial incentives, for covered persons to use participating providers under the terms of the managed care plan;

(27) "Participating provider" means a provider who, under a contract with the health carrier or with its contractor or subcontractor, has agreed to provide healthcare services to covered persons with an expectation of receiving payment, other than coinsurance, copayments or deductibles, directly or indirectly from the health carrier;

(28) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the entities listed in this subdivision (28);

(29) "Prospective review" means utilization review conducted prior to an admission or the provision of a healthcare service or a course of treatment in accordance with a health carrier's requirement that the healthcare service or course of treatment, in whole or in part, be approved prior to its provision or admission;

(30) "Register" means the written records kept by a health carrier to document all grievances received during a calendar year;

(31) "Retrospective review" means any review of a request for a benefit that is not a prospective review request. Retrospective review does not include the review of a claim that is limited to veracity of documentation or accuracy of coding; and

(32)(A) "Urgent care request" means a request for a healthcare service or course of treatment with respect to which the time periods for making non-urgent care request determination:

(i) Could seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function; or

(ii) In the opinion of a physician with knowledge of the covered person's medical condition, would subject the covered person to severe pain that cannot be adequately managed without the healthcare service or treatment that is the subject of the request;

(B)(i) In determining whether a request is to be treated as an urgent care request, an individual acting on behalf of the health carrier shall apply the judgment of a prudent layperson who possesses an average knowledge of health and medicine.

(ii) Any request that a physician with knowledge of the covered person's medical condition determines is an urgent care request within the meaning of subdivision (32)(A) shall be treated as an urgent care request.

SECTION 4. (a) Except as otherwise specified, this chapter shall apply to all health carriers.

(b) This chapter shall not apply to a policy or certificate that provides:

(1) Coverage only for a specified disease; specified accident or accident-only coverage; credit; dental; disability income; hospital indemnity; long-term care insurance, as defined by § 56-42-103; vision care or any other limited supplemental benefit or to a Medicare supplement policy of insurance as defined by the commissioner;

(2) Coverage under a plan through Medicare, Medicaid, or the Federal Employees Health Benefits program (FEHB);

(3) Any coverage issued under 10 U.S.C. § 1072 and any coverage issued as supplement to that coverage;

(4) Any coverage issued as supplemental to liability insurance; workers' compensation or similar insurance; automobile medical-payment insurance or any insurance under which benefits are payable without regard to fault; whether written on a group blanket or individual basis; or

(5) Any plan exempt from regulation under this title due to the Employee Retirement Income Security Act of 1974 (ERISA), compiled in 29 U.S.C. § 1144.

SECTION 5. Nothing in this chapter shall limit or restrict the health carrier from denying coverage on the grounds that the services are determined not to be medically necessary.

SECTION 6. (a) A health carrier shall maintain written records to document all grievances received during a calendar year. The register shall be maintained in a manner that is reasonably clear and accessible to the commissioner.

(b) A request for a first level review of a grievance involving an adverse determination shall be processed in compliance with Section 8 and is required to be included in the health carrier's register.

(c) A request for a second level review of a grievance involving an adverse determination that may be conducted pursuant to Section 9 shall be included in the health carrier's register.

(d) For each grievance, the register shall contain, at a minimum, the following information:

(1) A general description of the reason for the grievance;

(2) The date the grievance was received;

(3) The date of each review or, if applicable, review meeting;

(4) The resolution at each level of the grievance, if applicable;

(5) The date of resolution at each level, if applicable; and

(6) The name of the aggrieved person for whom the grievance was filed.

(e)(1) A health carrier shall retain the register compiled for a calendar year for the shorter of five (5) years or until the commissioner has adopted a final report of an examination that contains a review of the register for such calendar year.

(2)(A) A health carrier shall submit to the commissioner, at least annually, a report in the format specified by the commissioner.

(B) The report shall include for each type of health benefit plan offered by the health carrier:

(i) The number of covered lives that fall under this chapter's protections;

(ii) The total number of grievances;

(iii) The number of grievances for which a covered person and healthcare provider requested a second level voluntary grievance review pursuant to Section 9;

(iv) The number of grievances resolved at each level, if applicable, and their resolution; and

(v) A synopsis of actions being taken to correct problems identified.

SECTION 7. (a) Except as specified in Section 10, a health carrier shall use written procedures for receiving and resolving grievances from aggrieved persons, as provided in Sections 8 and 9, unless otherwise provided by this chapter.

(b) A health carrier shall file with the commissioner a copy of the procedures required under subsection (a), including all forms used to process requests made pursuant to Sections 8 and 9 of this chapter. Any subsequent material modifications to the documents also shall be filed.

(c) A description of the grievance procedures required under this section shall be set forth in or attached to the membership booklet, provider manual, and health carrier's Web site. The health carrier may include a description of the grievance procedures in the policy, certificate, outline of coverage or other evidence of coverage provided to aggrieved persons.

SECTION 8. (a) Within one-hundred and eighty (180) days after the date of receipt of a notice of an adverse determination, an aggrieved person may file a grievance with the health carrier requesting a first level review of the adverse determination.

(b) The health carrier shall provide the aggrieved person with the name and address of the organizational unit or department designated to coordinate the first level review on behalf of the health carrier.

(c)(1)(A) An aggrieved person does not have the right to attend, or to have a representative in attendance at the first level review; provided, that the aggrieved person is entitled to:

(i) Submit written comments, documents, records and other material relating to the request for benefits for the reviewer or reviewers to consider when conducting the review; and

(ii) Receive from the health carrier, upon request and free of charge, reasonable access to, and copies of all documents, records and other information relevant to the covered person's request for benefits.

(B) For purposes of subdivision (c)(1)(A)(ii), a document, record or other information shall be considered relevant to an aggrieved person's request for benefits if the document, record or other information:

(i) Was relied upon in making the benefit determination;

(ii) Was submitted, considered or generated in the course of making the adverse determination, without regard to whether the document, record or other information was relied upon in making the benefit determination;

(iii) Demonstrates that, in making the benefit determination, the health carrier or its designated representatives applied required administrative procedures and safeguards with respect to the covered person as other similarly situated covered persons; or

(iv) Constitutes a statement of policy or guidance with respect to the health benefit plan concerning the denied healthcare service or treatment for the covered person's diagnosis, without regard to whether the advice or statement was relied upon in making the benefit determination.

(2) The health carrier shall make the provisions of subdivision (c)(1) known to the aggrieved person within five (5) business days after the date of receipt of the grievance; provided, that the request was made to the appropriate organizational unit or department designated by the health carrier.

(d) For purposes of calculating the time periods within which a determination is required to be rendered and notice provided under subsection (e), the time period shall begin on the date the grievance requesting the first level review is filed with the health carrier in accordance with the health carrier's procedures established pursuant to Section 8, without regard to whether all of the information necessary to make the determination accompanies the filing.

(e)(1) A health carrier shall notify and issue a decision, in writing or electronically, to the aggrieved person within the timeframes provided in subdivisions (e)(2) and (3).

(2) With respect to a grievance requesting a first level review of an adverse determination involving a prospective review request, the health carrier shall notify and issue a decision within a reasonable period of time that is appropriate given the covered person's medical condition, but no later than thirty (30) days after the date of the health carrier's receipt of the grievance requesting the first level review made pursuant to subsection (a).

(3) With respect to a grievance requesting a first level review of an adverse determination involving a retrospective review request, the health carrier shall notify and issue a decision within a reasonable period of time, but no later than sixty (60) days after the date of the health carrier's receipt of the grievance requesting the first level review made pursuant to subsection (a).

(f) The decision issued pursuant to subsection (e) shall set forth, in a manner calculated to be understood by the aggrieved person:

(1) The titles and qualifying credentials of the person or persons participating and reviewing in the first level review;

(2) A statement of each reviewer's understanding of the grievance;

(3) Each reviewer's decision in clear terms and the contract basis or medical rationale in sufficient detail for the aggrieved person to respond further to the health carrier's position;

(4) A reference to the evidence or documentation used as the basis for the decision;

(5) For a first level review decision issued pursuant to subsection (e) involving an adverse determination:

(A) The specific reason or reasons for the adverse determination;

(B) A reference to the specific plan provisions on which the determination is based;

(C) A statement that the aggrieved person is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant, as the term "relevant" is defined in subdivision (c)(1)(B), to the covered person's benefit request;

(D) If the health carrier relied upon an internal rule, guideline, protocol or other similar criterion to make the adverse determination, either the specific rule, guideline, protocol or other similar criterion or a statement that a specific rule, guideline, protocol or other similar criterion was relied upon to make the adverse determination and that a copy of the rule, guideline, protocol or other similar criterion will be provided free of charge to the aggrieved person upon request and the date such policy was effective;

(E) If the adverse determination is based on medical necessity, either an explanation of the criteria for making the determination, applying the terms of the health benefit plan to the covered person's medical circumstances, or a statement that an explanation will be provided to the aggrieved person, free of charge upon request; and

(F) If applicable, instructions for requesting:

(i) A copy of the rule, guideline, protocol or other similar criterion relied upon in making the adverse determination, as provided in subdivision (f)(5)(D); and

(ii) The written statement of the criteria for the determination, as provided in subdivision (f)(5)(E);

(6) If applicable, a statement indicating:

(A) A description of the process to obtain a second level review of the first level review's decision involving an adverse determination, if the aggrieved person wishes to request a second level review pursuant to Section 9;

(B) The written procedures governing the second level review, including any required timeframe for the review; and

(C) A description of the procedures for obtaining an external review of the adverse determination pursuant to this chapter if the aggrieved person decides not to file for a second review of the first level review's decision involving an adverse determination.

SECTION 9. (a) A health carrier shall establish a second level review process to give aggrieved persons, who are dissatisfied with the first level review decision, the option of requesting a second level review.

(b)(1) Health carriers required by this section to establish a second level review process shall provide aggrieved persons with notice pursuant to

Section 8, as appropriate, of the option to file a request with the health carrier for a second level review of the first level review's decision rendered pursuant to Section 8.

(2) Upon receipt of a request for a second level review, the health carrier shall send notice within five (5) business days to the covered person or, if applicable, the covered person's authorized representative of the covered person's right to:

(A) Request, within the timeframe specified in subdivision (b)(3)(A), the opportunity to appear in person before a review panel of the health carrier's designated representatives;

(B) Receive from the health carrier, upon request, copies of all documents, records and other information that is not confidential or privileged relevant to the covered person's request for benefits;

(C) Present the covered person's case to the review panel;

(D) Submit written comments, documents, records and other material relating to the request for benefits to the review panel for consideration when conducting the second level review both before and, if applicable, during the second level review;

(E) If applicable, ask questions of any representative of the health carrier on the review panel; provided, such questions are governed and relevant to the subject matter of the second level review; and

(F) Be assisted or represented by an individual of the covered person's choice, at the expense of such covered person.

(3)(A) A covered person or covered person's authorized representative wishing to request to appear in person before the review panel of the health carrier's designated representatives shall make the request to the health carrier within ten (10) business days after the date of receipt of the notice sent in accordance with subdivision (b)(2).

(B) The covered person's right to a fair review shall not be made conditional on the covered person or the covered person's authorized representative's appearance at the second level review.

(4) Upon receipt of a request for a second level review, the health carrier shall send notice within five (5) business days to the healthcare provider of the healthcare provider's right to:

(A) Receive from the health carrier, upon request, copies of all documents, records and other information that is not confidential or privileged relevant to the aggrieved person's request for benefits;

(B) Submit written comments, documents, records and other material relating to the request for benefits for the review panel to consider when conducting the second level review; and

(C) If applicable, ask questions of any representative of the health carrier on the review panel; provided, such questions are governed and relevant to the subject matter of the second level review.

(c)(1)(A) With respect to a second level review of a first level review decision rendered pursuant to Section 8, a health carrier shall appoint a review panel to review the request.

(B) In conducting the review, the review panel shall take into consideration all comments, documents, records and other information regarding the request for benefits submitted by the aggrieved person pursuant to subdivision (b)(2), without regard to whether the information was submitted or considered in reaching the first level review's decision.

(C) The review panel shall have the legal authority to bind the health carrier to the review panel's decision.

(2)(A) Except as provided in subdivision (c)(2)(B), a majority of the review panel shall be comprised of individuals who were not involved in the first level review decision rendered pursuant to Section 8.

(B) An individual who was involved with the first level review decision may be a member of the review panel or appear before the review panel to present information or answer questions.

(C) The health carrier shall ensure that the individuals conducting the second level review of the first level review decision have appropriate expertise or have access to appropriate expertise that consists of similar knowledge and training or specialty that typically is involved in managing the medical condition, procedure or treatment that is the subject of the grievance under second level review.

(D) No member of the review panel shall have a direct financial interest in the outcome of the second level review.

(d) The procedures for conducting the second level review shall include the provisions described in subdivisions (1) through (5):

(1) The review panel shall schedule and hold the second level review within sixty (60) business days after the date of receipt of the request for a second level review.

(A) The aggrieved person shall be notified in writing at least fifteen (15) business days in advance of the date of the second level review.

(B) The health carrier shall not unreasonably deny a request for postponement of the second level review made by the aggrieved person.

(2) The second level review shall be held during regular business hours at a location that meets the guidelines established by the Americans with Disabilities Act, compiled in 42 U.S.C. § 1201, et seq., to the aggrieved person;

(3) In cases where an in-person second level review is not practical for geographic reasons, or any other reason, a health carrier shall offer the aggrieved person the opportunity to communicate with the review panel, at the health carrier's sole expense, by conference call or other appropriate technology as determined by the health carrier;

(4) The review panel shall provide the aggrieved person notice of the right to have an attorney present at the second level review; and

(5) The review panel shall issue a written or electronic decision, as provided in subsection (e), to the aggrieved person within five (5) business days of completing the second level review meeting.

(e) A decision issued pursuant to this section shall include the:

(1) Titles and qualifying credentials of the reviewers on the review panel;

(2) Statement of the review panel's understanding of the nature of the grievance and all pertinent facts;

(3) Rationale for the review panel's decision;

(4) Reference to evidence or documentation considered by the review panel in rendering its decision; and

(5) In cases concerning a grievance involving an adverse determination:

(A) Instructions for requesting a written statement of the clinical rationale, including the clinical review criteria used to make the determination; and

(B) If applicable, a statement describing the procedures for obtaining an external review of the adverse determination pursuant to this chapter.

SECTION 10. (a) A health carrier shall establish written procedures for the expedited review of urgent care requests of grievances involving an adverse determination.

(b) In addition to subsection (a), a health carrier shall provide expedited review of a grievance involving an adverse determination with respect to concurrent review of urgent care requests involving an admission, availability of care, continued stay or

healthcare service for a covered person who has received emergency services, but has not been discharged from a facility.

(c) The procedures shall allow an aggrieved person to request an expedited review under this section orally, in writing or electronically.

(d) A health carrier shall appoint an appropriate clinical peer, or peers as would typically manage the case being reviewed, to review the adverse determination. The clinical peer or peers shall not have been involved in rendering the initial adverse determination.

(e) In an expedited review, the health carrier shall provide or transmit all necessary documents and information considered when making the adverse determination to the aggrieved person participating in the expedited review process electronically or by telephone, facsimile or any other expeditious method available.

(f)(1) An expedited review decision shall be rendered and the aggrieved person shall be notified of the decision in accordance with subsection (h) as expeditiously as the covered person's medical condition requires, but in no event more than seventy-two (72) hours after the receipt of the request for the expedited review.

(2) If the expedited review is of a grievance involving an adverse determination with respect to a concurrent review of an urgent care request, the service shall be continued until the covered person or covered person's authorized representative has been notified of the determination or until the healthcare provider determines that the urgent care is no longer appropriate or necessary.

(g) For purposes of calculating the time periods within which a decision is required to be rendered under subsection (f), the time period within which the decision is required to be rendered shall begin on the date that the request is filed with the health carrier in accordance with the health carrier's procedures established pursuant to Section 8; without regard to whether all the information necessary to make the determination accompanies the filing.

(h)(1) A notification of a decision under this section shall, in a manner calculated to be understood by the aggrieved person, set forth:

(A) The titles and qualifying credentials of the person or persons participating in the expedited review process;

(B) A statement of the reviewers' understanding of the grievance;

(C) The reviewers' decision in clear terms and the contract basis or medical rationale in sufficient detail for the aggrieved person to respond further to the health carrier's position;

(D) A reference to the evidence or documentation used as the basis for the decision; and

(E) If the decision involves an adverse determination, the notice shall provide:

(i) The specific reason or reasons for the adverse determination;

(ii) Reference to the specific plan provisions on which the determination is based;

(iii) A description of any additional material or information necessary for the covered person to complete the request, including an explanation of why the material or information is necessary to complete the request;

(iv) If the health carrier relied upon an internal rule, guideline, protocol or other similar criterion, effective at the time of service, to make the adverse determination, either the specific rule, guideline, protocol or other similar criterion or a statement that a specific rule, guideline, protocol or other similar criterion was relied upon to make the adverse determination and a copy of the rule, guideline, protocol or other similar criterion will be provided free of charge to the aggrieved person upon request;

(v) If the adverse determination is based on medical necessity, an explanation of the criteria for making the determination, applying the terms of the health benefit plan to the covered person's medical circumstances or a statement that an explanation will be provided to the aggrieved person free of charge upon request;

(vi) If applicable, instructions for requesting:

(a) A copy of the rule, guideline, protocol or other similar criterion relied upon in making the adverse determination in accordance with subdivision (h)(1)(E)(iv); or

(b) The written statement of the criteria for the adverse determination in accordance with subdivision (h)(1)(E)(v); and

(vii) A statement describing the procedures for obtaining an external review of the adverse determination pursuant to this chapter.

(2)(A) A health carrier may provide the notice required under this section orally, in writing or electronically.

(B) If notice of the adverse determination is provided orally, the health carrier shall provide written or electronic notice of the adverse determination within three (3) days following such oral notification.

SECTION 11. The commissioner may, after notice and hearing, promulgate reasonable rules and regulations to carry out the provisions of this chapter. Such rules and regulations shall be subject to review in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 12. A person that violates this chapter shall be subject to the penalties set forth in § 56-2-305.

SECTION 13. (a) For purposes of this section, "approved entity" means:

(1) URAC, or

(2) Other nationally recognized private accrediting entity employing standards for the accreditation of external review programs that the commissioner deems are substantially equivalent to the standards for conducting an external review pursuant to Sections 14 through 19 of this chapter.

(b) A health carrier may elect, in writing to the commissioner, to conduct its external review program in accordance with:

(1) Sections 14 through 19 of this chapter, or

(2) The external review program of an approved entity, provided that the health carrier receives and maintains accreditation from the approved entity. Sections 21 and 22 of this chapter shall not apply to a health carrier that receives and maintains accreditation from the approved entity.

(c) The commissioner may evaluate the external review procedures of an approved entity. If after a hearing is conducted in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, Part 3, the commissioner finds that an approved entity has amended its external review procedures to the extent that such procedures are no longer consistent with the purposes of this chapter, the commissioner shall issue a written order specifying in what respects those procedures are inconsistent.

(d) A health carrier that has elected to conduct its external review program in accordance with the standards of an approved entity, that is the subject of the commissioner's order issued pursuant to subsection (c), shall have sixty (60) days from the effective date of the commissioner's order to:

(1) Elect, in writing, to utilize another external review program under subsection (b); or

(2) Demonstrate to the commissioner's satisfaction that the approved entity has subsequently amended its procedures so that such procedures are consistent with the purposes of this chapter.

SECTION 14. (a) A health carrier shall notify the aggrieved person in writing of the right to request an external review to be conducted pursuant to Sections 17 and 19 of this chapter and include the appropriate statements and information set forth in

subsection (b) of this section at the same time that the health carrier sends written notice of a final adverse determination. As part of the written notice required under this subsection (a), a health carrier shall include the following, or substantially equivalent language:

We have denied your request for the provision of or payment for a healthcare service or course of treatment. You have the right to have our decision reviewed by healthcare professionals who have no association with us if our decision involved making a judgment as to the medical necessity, appropriateness, healthcare setting, level of care or effectiveness of the healthcare service or treatment you requested by submitting a written request for external review to us.

(b) The health carrier shall include the following in the notice required under subsection (a):

(1) For a notice related to an adverse determination, a statement informing the aggrieved person that:

(A) If the covered person has a medical condition where the timeframe for completion of an expedited review of a grievance involving an adverse determination set forth in Section 10 would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, the aggrieved person may file a request for an expedited external review to be conducted pursuant to Section 18.

(B) The aggrieved person may file a grievance under the health carrier's internal grievance process as set forth in Section 8. An aggrieved person shall be considered to have exhausted the health carrier's internal grievance process for purposes of this section, if the aggrieved person:

(i) Has filed a grievance involving an adverse determination pursuant to Section 8; and

(ii) Has not received a written decision on the grievance from the health carrier within thirty (30) days for prospective review determinations and sixty (60) days for retrospective review determinations following the date the aggrieved person filed the grievance with the health carrier unless the aggrieved person requested or agreed to a delay.

(2) For a notice related to a final adverse determination, a statement informing the aggrieved person that:

(A) If the covered person has a medical condition where the timeframe for completion of a standard external review pursuant to Section 17 or Section 19 would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function, the aggrieved person may file a request for an expedited external review pursuant to Section 18 or Section 19(n).

(B) If the final adverse determination concerns an admission, availability of care, continued stay or healthcare service for which the covered person received emergency services, but has not been discharged from a facility, the aggrieved person may file a request for an expedited external review pursuant to Section 18 or Section 19(n).

(c) In addition to the information to be provided pursuant to subdivision (b)(1), the health carrier shall include a copy of the description of both the standard and expedited external review procedures highlighting the provisions in the external review procedures that give the aggrieved person the opportunity to submit additional information and any forms used to process an external review.

(d) As part of any forms provided under subdivision (b)(2), the health carrier shall include an authorization form that complies with the requirements of 45 C.F.R. § 164.508, by which the covered person, for purposes of conducting an external review under this chapter, authorizes the health carrier and the covered person's treating healthcare provider to disclose protected health information, including, but not limited to, medical records concerning the covered person that are pertinent to the external review.

SECTION 15. (a) Except for a request for an expedited external review as set forth in Section 18 or 19(n), all requests for external review shall be made in writing to the health carrier.

(b) Unless otherwise set forth by this chapter, an aggrieved person may file a request for external review after the receipt of a final adverse determination.

SECTION 16. (a) Except as provided in subsection (b), a request for an external review pursuant to Section 17 or Section 19 shall not be made until the aggrieved person has exhausted the health carrier's internal grievance process as set forth in this chapter.

(1) An aggrieved person shall be considered to have exhausted the health carrier's internal grievance process for purposes of this section, if the aggrieved person:

(A) Has filed a grievance involving an adverse determination pursuant to Section 8; and

(B) Has not received a written decision on the grievance from the health carrier within thirty (30) days for prospective review determinations and sixty (60) days for retrospective review determinations following the date that the aggrieved person filed the grievance with the health carrier unless the aggrieved person requested or agreed to a delay.

(2) Notwithstanding subdivision (a)(1)(B), an aggrieved person may not file a request for an external review of an adverse determination involving a retrospective review determination until the covered person has exhausted the health carrier's internal grievance process.

(b) A request for an external review of an adverse determination may be filed before the covered person has exhausted the health carrier's internal grievance procedures, as set forth in Section 8, whenever the health carrier agrees to waive the exhaustion requirement.

(c) If the requirement to exhaust the health carrier's internal grievance procedures is waived pursuant to subsection (b), the aggrieved person may file a request in writing for a standard external review as set forth in Section 17 or Section 19.

SECTION 17. (a) Within six (6) months after the date of receipt of a notice of an adverse determination or final adverse determination pursuant to Section 14, an aggrieved person may file a request for an external review with the health carrier.

(b) Within ten (10) business days following the date of receipt of the copy of the external review request, the health carrier shall complete a preliminary review of the request to determine whether:

(1) The individual is or was a covered person in the health benefit plan at the time that the healthcare service was requested or, in the case of a retrospective review, was a covered person in the health benefit plan at the time that the healthcare service was provided;

(2) The healthcare service that is the subject of the adverse determination or the final adverse determination is a covered service under the covered person's health benefit plan;

(3) The covered person has exhausted the health carrier's internal grievance process as set forth in this chapter unless the covered person is not required to exhaust the health carrier's internal grievance process pursuant to Section 16; and

(4) The covered person has provided all the information and forms required to process an external review, including the release form provided pursuant to Section 14.

(c) Within three (3) business days after completion of the preliminary review, the health carrier shall notify the aggrieved person in writing whether:

(1) The request is complete; and

(2) The request is eligible for external review.

(d) If the request set out in subsection (a):

(1) Is not complete, the health carrier shall notify the aggrieved person in writing and include in the notice what information or materials are needed to make the request complete; or

(2) Is not eligible for external review, the health carrier shall notify the aggrieved person in writing and include in the notice the reasons for its ineligibility.

(e) The notice of initial determination shall include a statement informing the aggrieved person that a health carrier's initial determination that the external review request is ineligible for review may be appealed to the commissioner.

(f) The commissioner may determine that a request is eligible for external review under this chapter notwithstanding a health carrier's initial determination that the request is ineligible and require that it be referred for external review.

(1) In making a determination under this subdivision (f), the commissioner's decision shall be made in accordance with the terms of the covered person's health benefit plan and shall be subject to all applicable provisions of this chapter.

(2) Whenever the health carrier or commissioner determines that a request is eligible for external review following the preliminary review conducted pursuant to subdivision (c)(2), within three (3) business days after the determination by the health carrier or within three (3) business days after the date of receipt of the determination by the commissioner, the health carrier shall notify the aggrieved person in writing of the request's eligibility and acceptance for external review.

(g) The health carrier shall include in the notice provided to the aggrieved person, a statement that additional information may be submitted in writing to the health carrier within six (6) business days following the date of receipt of the notice provided pursuant to subdivision (f)(2), and that the external review organization shall consider such additional information when conducting the external review. The health carrier is not required to, but may, accept and forward to the external review organization for consideration such additional information submitted by the aggrieved person after six (6) business days.

(h) Within six (6) business days after the date of receipt of the notice provided pursuant to subsection (g), the health carrier shall provide to the external review organization any documents and information considered in making the adverse determination or final adverse determination.

(1) Failure by the health carrier to provide the documents and information within the time specified in subsection (h) shall not delay the external review.

(2) If the health carrier fails to provide the documents and information within the time specified in subsection (h), the external review organization may terminate the external review and make a decision to reverse the adverse determination or final adverse determination.

(3) The external review organization shall notify the health carrier within one (1) business day of its decision to reverse the adverse determination or final adverse determination pursuant to subdivision (h)(2). The health carrier shall notify the aggrieved person within three (3) business days of the external review organization's decision.

(i) The external review organization shall review all of the information and documents received pursuant to subsection (g) and any other information submitted in writing by the aggrieved person.

(j) Upon receipt of the information required to be forwarded pursuant to subsection (g), the health carrier may reconsider its final adverse determination that is the subject of the external review.

(1) Reconsideration by the health carrier of its final adverse determination shall not delay or terminate the external review.

(2) The external review may only be terminated by the health carrier if the health carrier decides, upon completion of its reconsideration, to reverse its final adverse determination and provide coverage or payment for the healthcare service that is the subject of the adverse determination or final adverse determination. If the health carrier reverses its previous determinations pursuant to this subsection (j), the health carrier shall not at a later date reverse its reversal.

(3) Within three (3) business days after making the decision to reverse its adverse determination or final adverse determination, the health carrier shall notify the aggrieved person and the external review organization in writing of its decision. The external review organization shall terminate the external review upon receipt of the notice from the health carrier sent pursuant to subdivision (l)(3).

(k) In addition to the documents and information provided pursuant to subsections (g) and (h), the external review organization, to the extent that the information or documents are available and the external review organization considers them appropriate, shall consider the following in reaching a decision:

(1) The covered person's pertinent medical records;

(2) The attending healthcare professional's recommendation;

(3) The consulting reports from appropriate healthcare professionals and other documents submitted by the aggrieved person or the covered person's treating physician or healthcare professional;

(4) The terms of coverage under the covered person's health benefit plan with the health carrier to ensure that the external review organization's decision is not contrary to the terms of coverage under the covered person's health benefit plan with the health carrier;

(5) Any applicable clinical review criteria developed and used by the health carrier;

(6) The most appropriate practice guidelines, which shall include applicable medical or scientific evidence based standards;

(7) Findings, studies or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes, including:

(A) The Agency for Healthcare Research and Quality;

(B) The National Institutes of Health;

(C) The National Cancer Institute;

(D) The National Academy of Sciences;

(E) The Centers for Medicare & Medicaid Services;

(F) The Federal Food and Drug Administration; and

(G) Any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of healthcare services; and

(8) The opinion of the external review organization's clinical reviewer or reviewers after considering subdivisions (1) - (7), to the extent the information or documents are available and the clinical reviewer or reviewers consider appropriate.

(l) In reaching a decision, the external review organization is not bound by any decisions or conclusions reached during the health carrier's internal grievance process as set forth in this chapter. However, the external review organization shall be bound by the terms and conditions of the covered person's health benefit plan.

(m) Within forty-five (45) days after the date of receipt of the request for an external review, the external review organization shall provide written notice of its decision to uphold or reverse the adverse determination or the final adverse determination to the health carrier.

(n) Within one (1) business day after rendering the decision under subsection (m), the external review organization shall notify the health carrier. Within three (3) business days after receiving the decision from the external review organization, the health carrier shall notify the aggrieved person of the external review organization's decision to uphold or reverse the adverse determination or final adverse determination. If the decision involved healthcare provider compensation, the health carrier shall make appropriate payment to the healthcare provider within ten (10) business days of the receipt of a notice of the external review organization's decision.

(o) The external review organization shall include in the notice sent pursuant to subsection (m):

(1) A general description of the reason for the request for external review;

(2) The date that the external review organization received the assignment from the health carrier to conduct the external review;

(3) The date that the external review was conducted;

(4) The date of the external review organization's decision;

(5) The principal reason or reasons for the external review organization's decision, including any applicable, medical or scientific evidence based standards used as a basis for its decision;

(6) The rationale for the external review organization's decision; and

(7) References to the evidence or documentation, including the medical or scientific evidence based standards, considered in reaching the external review organization's decision.

(p) Upon receipt of a notice of a decision pursuant to subsection (m) reversing the adverse determination or final adverse determination, the health carrier shall immediately approve the coverage that was the subject of the adverse determination or final adverse determination. If the decision involved healthcare provider compensation, the health carrier shall make appropriate payment to the healthcare provider within ten (10) business days of the receipt of a notice of the external review organization's decision.

(q) The health carrier, regardless of URAC accreditation, shall have a contract with at least two (2) or more external review entities and may give the aggrieved person the opportunity to select, from among the external review organizations that the health carrier has contracts with, the external review organization to conduct the review.

SECTION 18. (a) Except as provided in subsection (f), an aggrieved person may make a request for an expedited external review with the health carrier at the time the aggrieved person receives:

(1) An adverse determination if:

(A) The adverse determination involves a medical condition of the covered person for which the timeframe for completion of an expedited internal review of a grievance involving an adverse determination set forth in Section 10 would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function; and

(B) The aggrieved person has filed a request for an expedited review of a grievance involving an adverse determination as set forth in Section 10; or

(2) A final adverse determination:

(A) If the covered person has a medical condition where the timeframe for completion of a standard external review pursuant to Section 17 would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function; or

(B) If the final adverse determination concerns an admission, availability of care, continued stay or healthcare service for which the covered person received emergency services, but has not been discharged from a facility.

(b)(1) Immediately upon receipt of the request, the health carrier shall determine whether the request meets the reviewability requirements set forth in Section 17. The health carrier shall immediately notify the aggrieved person of its eligibility determination regarding the availability of external review.

(2) The notice of initial determination shall include a statement informing the aggrieved person that a health carrier's initial determination that an external review request is ineligible for review and that the aggrieved person may file a complaint with the commissioner.

(A) The commissioner may determine that a request is eligible for external review notwithstanding a health carrier's initial determination that the request is ineligible and that it be referred to external review.

(B) In making a determination under (A), the commissioner's decision shall be made in accordance with the terms of the covered person's health benefit plan and shall be subject to all applicable provisions of this chapter.

(c) Upon making a determination that a request is eligible for expedited external review the health carrier shall immediately notify the aggrieved person in writing that the request is eligible for external review.

(d) At the same time, the health carrier shall immediately notify the external review organization and provide or transmit all necessary documents and information considered when making the adverse determination or final adverse determination electronically or by telephone, facsimile or any other expeditious method available.

(e) In addition to the documents and information provided or transmitted pursuant to subsection (d), the external review organization, to the extent that the information or documents are available and the external review organization considers them appropriate, shall consider the following in reaching a decision:

(1) The covered person's pertinent medical records;

(2) The attending healthcare professional's recommendation;

(3) Consulting reports from appropriate healthcare professionals and other documents submitted by the health carrier or the aggrieved person;

(4) The terms of coverage under the covered person's health benefit plan with the health carrier to ensure that the external review organization's decision is not contrary to the terms of coverage under the covered person's health benefit plan with the health carrier;

(5) The most appropriate practice guidelines, which shall include medical or scientific evidence based standards;

(6) Applicable clinical review criteria developed and used by the health carrier in making adverse determinations; and

(7) Findings, studies or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes, including:

(A) The Federal Agency for Healthcare Research and Quality;

(B) The National Institutes of Health;

(C) The National Cancer Institute;

(D) The National Academy of Sciences;

(E) The Centers for Medicare & Medicaid Services;

(F) The Federal Food and Drug Administration; and

(G) Any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of healthcare services; and

(8) The opinion of the external review organization's clinical reviewer or reviewers after considering subdivisions (e)(1) - (7) to the extent that the information and documents are available and the clinical reviewer or reviewers consider appropriate.

(f) As expeditiously as the covered person's medical condition or circumstances requires, but in no event more than seventy-two (72) hours after the date of receipt of the request for an expedited external review that meets the reviewability requirements, the external review organization shall make a decision to uphold or reverse the adverse determination or final adverse determination; and

(1) Notify the health carrier of the decision and the health carrier must immediately notify the aggrieved person of the external review organization's decision. The aggrieved person must receive the decision of the expedited external review within seventy-two (72) hours after the date of receipt of the request for expedited external review.

(2)(A) If the notice provided pursuant to subsection (f) was not in writing, within forty-eight (48) hours after the date of providing such notice, the external review organization shall provide written confirmation of the decision to the health carrier; and include the information set forth in Section 18.

(B) The health carrier shall immediately notify the aggrieved person of the external review organization's decision and include the information set forth in Section 18.

(C) Upon receipt of notice of the decision rendered pursuant to subdivision (f)(1) reversing the adverse determination or final adverse determination, the health carrier shall immediately approve the coverage that was the subject of the adverse determination or the final adverse determination.

(g) An expedited external review shall not be provided for retrospective adverse determinations or final adverse determinations.

SECTION 19. (a) Within six (6) months after the date of receipt of a notice of an adverse determination or final adverse determination that involves a denial of coverage based on a determination that the healthcare service or treatment recommended or requested is investigational an aggrieved person may file a request for external review with the health carrier.

(b) Within ten (10) business days following the date of receipt of the copy of the external review request, the health carrier shall conduct and complete a preliminary review of the request to determine whether:

(1) The individual is or was a covered person in the health benefit plan at the time that the healthcare service or treatment was recommended or requested or, in the case of a retrospective review, was a covered person in the health benefit plan at the time that the healthcare service or treatment was provided;

(2) The recommended or requested healthcare service or treatment that is the subject of the adverse determination or final adverse determination:

(A) Is a covered benefit under the covered person's health benefit plan except for the health carrier's determination that the service or treatment is experimental or investigational for a particular medical condition; and

(B) Is not explicitly listed as an excluded benefit under the covered person's health benefit plan with the health carrier;

(3) The covered person's treating physician has certified that one (1) of the following situations is applicable:

(A) Standard healthcare services or treatments have not been effective in improving the condition of the covered person;

(B) Standard healthcare services or treatments are not medically appropriate for the covered person; or

(C) There is no available standard healthcare service or treatment covered by the health carrier that is more beneficial than the recommended or requested healthcare service; or

(4) The covered person's treating physician:

(A) Has recommended a healthcare service or treatment that the physician certifies, in writing, is likely to be more beneficial to the covered person, in the physician's opinion, than any available standard healthcare services or treatments; or

(B) Who is a licensed, board certified or board eligible physician qualified to practice in the area of medicine appropriate to treat the covered person's condition, has certified in writing that scientifically valid studies using accepted protocols demonstrate that the healthcare service or treatment requested by the covered person that is the subject of the adverse determination or final adverse determination is likely to be more beneficial to the covered person than any available standard healthcare services or treatments;

(5) The aggrieved person has exhausted the health carrier's internal grievance process as set forth in this chapter unless the aggrieved person is not required to exhaust the health carrier's internal grievance process pursuant to Section 16; and

(6) The aggrieved person has provided all the information and forms that are necessary to process an external review, including the release form provided under Section 14.

(c) Within three (3) business days after completion of the preliminary review, the health carrier shall notify the aggrieved person in writing whether:

(1) The request is complete; and

(2) The request is eligible for external review.

(d) If the request set out in subsection (a):

(1) Is not complete, the health carrier shall notify the aggrieved person, in writing, and include in the notice what information or materials are needed to make the request complete; or

(2) Is not eligible for external review, the health carrier shall notify the aggrieved person in writing and include in the notice the reasons for its ineligibility.

(e) The notice of initial determination shall include a statement informing the aggrieved person that a health carrier's initial determination that the external review request is ineligible for review may be appealed to the commissioner.

(f)(1) The commissioner may determine that a request is eligible for external review under this chapter notwithstanding a health carrier's initial determination that the request is ineligible and require that it be referred for external review.

(2) In making a determination under this subsection, the commissioner's decision shall be made in accordance with the terms of the covered person's health benefit plan and shall be subject to all applicable provisions of this chapter.

(g)(1) Whenever the health carrier or commissioner determines that a request is eligible for external review following the preliminary review conducted pursuant to subdivision (c)(2), within three (3) business days after the determination by the health carrier or within three (3) business days after the date of receipt of the determination by the commissioner, the health carrier shall notify the aggrieved person in writing of the request's eligibility and acceptance for external review.

(2) The health carrier shall include in the notice provided to the aggrieved person, a statement that additional information may be submitted in writing to the health carrier, within six (6) business days following the date of receipt of the notice provided pursuant to this subsection (g), that the external review organization shall consider when conducting the external review. The health carrier is not required to, but may, accept and forward to the external review organization for consideration such additional information submitted by the aggrieved person after six (6) business days.

(3) Within one (1) business day after the receipt of the notice of the request to conduct external review, the external review organization shall:

(A) Select one (1) or more clinical reviewers, as it determines is appropriate, pursuant to subsection (o) to conduct the external review; and

(B) Based on the opinion of the clinical reviewer, or opinions if more than one (1) clinical reviewer has been selected to conduct the external review, make a decision to uphold or reverse the adverse determination or final adverse determination.

(4) In selecting clinical reviewers pursuant to subdivision (g)(3), the external review organization shall select physicians or other healthcare professionals who meet the minimum qualifications described in Section 22 and, through clinical experience in the past three (3) years, are experts in the treatment of the covered person's condition and knowledgeable about the recommended or requested healthcare service or treatment.

(5) Neither the aggrieved person nor the health carrier shall choose or control the choice of the physicians or other healthcare professionals selected to conduct the external review.

(6) In accordance with subsection (h), each clinical reviewer shall provide a written opinion to the external review organization on whether the recommended or requested healthcare service or treatment should be covered.

(7) In reaching an opinion, clinical reviewers are not bound by any decisions or conclusions reached during the health carrier's internal grievance process.

(h)(1) Within six (6) business days after the date of receipt of the notice provided pursuant to subsections (c) or (f), the health carrier shall provide to the external review organization, any documents and information considered in making the adverse determination or the final adverse determination.

(2) Failure by the health carrier to provide the documents and information within the time specified in subsection (h) shall not delay the conduct of the external review.

(3) If the health carrier fails to provide the documents and information within the time specified in subsection (h), the external review organization may terminate the external review and make a decision to reverse the adverse determination or final adverse determination.

(4) The external review organization shall notify the health carrier within one (1) business day of its decision to reverse the adverse determination or final adverse determination pursuant to subdivision (h)(3). The health carrier shall notify the aggrieved person within three (3) business days of the external review organization's decision.

(i) Each clinical reviewer selected pursuant to subdivision (g)(3) shall review all of the information and documents received pursuant to subdivision (g)(2) and any other information submitted in writing by the aggrieved person.

(j)(1) Upon receipt of the information required to be forwarded pursuant to subdivision (g)(2), the health carrier may reconsider its adverse determination or final adverse determination that is the subject of the external review.

(2) Reconsideration by the health carrier of its adverse determination or final adverse determination shall not delay or terminate the external review.

(3) The external review may terminate only if the health carrier decides, upon completion of its reconsideration, to reverse its adverse determination or final adverse determination and provide coverage or payment for the recommended or requested healthcare service or treatment that is the subject of the adverse determination or final adverse determination.

(4) Within three (3) business days after making the decision to reverse its adverse determination or final adverse determination, the health carrier shall notify the aggrieved person of its decision in writing.

(5) The external review organization shall terminate the external review upon receipt of the notice from the health carrier sent pursuant to subdivision (j)(4).

(k) Within twenty (20) days after being selected in accordance with subdivision (g)(3) to conduct the external review, each clinical reviewer shall provide an opinion to the external review organization on whether the recommended or requested healthcare service or treatment should be covered. Each clinical reviewer's opinion shall be in writing and include the following information:

(1) A description of the covered person's medical condition;

(2) A description of the indicators relevant to determining whether there is sufficient evidence to demonstrate that the recommended or requested healthcare service or treatment is more likely than not to be

beneficial to the covered person than any available standard healthcare services or treatments and the adverse risks of the recommended or requested healthcare service or treatment would not be substantially increased over those available standard healthcare services or treatments;

(3) A description and analysis of any medical or scientific evidence, as that term is defined by this chapter; and

(4) Information on whether the reviewer's rationale for the opinion is based on subdivision (l)(5).

(l) In addition to the documents and information provided pursuant to subsection (g), each clinical reviewer, to the extent that the information or documents are available and the reviewer considers appropriate, shall consider the following in reaching an opinion pursuant to subsection (k):

(1) The covered person's pertinent medical records;

(2) The attending physician or healthcare professional's recommendation;

(3) Consulting reports from appropriate healthcare professionals and other documents submitted by the health carrier, aggrieved person, or the covered person's treating physician or healthcare professional;

(4) The terms of coverage under the covered person's health benefit plan with the health carrier to ensure that, but for the health carrier's determination that the recommended or requested healthcare service or treatment that is the subject of the opinion is experimental or investigational, the reviewer's opinion is not contrary to the terms of coverage under the covered person's health benefit plan with the health carrier; and

(5) Whether:

(A) The recommended or requested healthcare service or treatment has been approved by the Federal Food and Drug Administration, if applicable, for the condition; or

(B) Medical or scientific evidence based standards that demonstrate that the expected benefits of the recommended or requested healthcare service or treatment is more likely than not to be beneficial to the covered person than any available standard healthcare service or treatment and the adverse risks of the recommended or requested healthcare service or treatment would not be substantially increased over those of available standard healthcare services or treatments.

(m)(1) Within twenty (20) days after the date it receives the opinion of each clinical reviewer, the external review organization shall make a decision and provide written notice of the decision to the health carrier. The health carrier shall notify the aggrieved person within three (3) business days of the external review organization decision.

(2) If a majority of the clinical reviewers recommend that the recommended or requested healthcare service or treatment should be covered, the external review organization shall render a decision to reverse the health carrier's adverse determination or final adverse determination.

(3) If a majority of the clinical reviewers recommend that the recommended or requested healthcare service or treatment should not be covered, the external review organization shall render a decision to uphold the health carrier's adverse determination or final adverse determination.

(4) If the clinical reviewers are evenly split as to whether the recommended or requested healthcare service or treatment should be covered, then the external review organization shall obtain the opinion of an additional clinical reviewer in order for the external review organization to render a decision based on the opinions of a majority of the clinical reviewers; provided that:

(A) The additional clinical reviewer selected under this subdivision (m) shall use the same information to reach an opinion as the clinical reviewers who have already submitted their opinions pursuant to subsection (i).

(B) The selection of the additional clinical reviewer under this subdivision (m) shall not extend the time within which the external review organization is required to render a decision based on the opinions of the clinical reviewers selected under subsection (g).

(5) The external review organization shall include in the notice provided pursuant to this subsection (m):

(A) A general description of the reason for the request for external review;

(B) The written opinion of each clinical reviewer, including the recommendation of each clinical reviewer as to whether the recommended or requested healthcare service or treatment should be covered and the rationale for the clinical reviewer's recommendation;

(C) The date that the external review organization was notified by the health carrier to conduct the external review;

(D) The date that the external review was conducted;

(E) The date of external review organization's decision;

(F) The principal reason or reasons for external review organization's decision; and

(G) The rationale for external review organization's decision.

(6) Upon receipt of a notice of a decision reversing the adverse determination or final adverse determination, the health carrier shall immediately approve coverage of the recommended or requested healthcare service or treatment that was the subject of the adverse determination or final adverse determination. If the decision involved healthcare provider compensation, the health carrier shall make appropriate payment to the healthcare provider within ten (10) business days of the receipt of a notice of the decision from the external review organization.

(n)(1) Within six (6) months after the date of a notice of an adverse determination that involves a denial of coverage based upon the determination that the healthcare service or treatment recommended or requested is experimental or investigational, an aggrieved person may file a request for an expedited external review of the adverse determination. The covered person's treating physician must certify, in writing, that the recommended or requested healthcare service or treatment that is the subject of the request would be significantly less effective if not promptly initiated.

(2) Upon notice of the request for expedited external review, the health carrier shall immediately determine whether the request meets the reviewability requirements of subsection (b). The health carrier shall immediately notify the aggrieved person of its eligibility determination.

(3) The notice of initial determination shall include a statement informing the aggrieved person that a health carrier's initial determination that the request for external review is ineligible for review and may be appealed to the commissioner; provided that:

(A) The commissioner may determine that a request is eligible for external review notwithstanding a health carrier's initial determination that the request is ineligible and that it be referred to external review; and

(B) In making a determination under subdivision (n)(3)(A), the commissioner's decision shall be made in accordance with the terms of the covered person's health benefit plan and shall be subject to all applicable provisions of this chapter.

(4) Upon making a determination that a request is eligible for expedited external review, the health carrier shall immediately notify the aggrieved person in writing the request is eligible for external review.

(5) At the same time, the health carrier shall immediately notify the external review organization and provide or transmit all necessary documents and information considered when making the adverse determination or final adverse determination electronically or by telephone, facsimile or any other expeditious method available.

(6) Within one (1) business day after the receipt of the notice to conduct an expedited external review, the external review organization shall:

(A) Select one (1) or more clinical reviewers, as it deems appropriate to conduct the expedited external review;

(B) Based on the decision of the clinical reviewer or reviewers render a decision to uphold or reverse the decision of the adverse determination;

(C) Require each clinical reviewer to provide an opinion, orally or in writing, to the external review organization as expeditiously as the covered person's medical condition or circumstances requires, but in no event more than five (5) days after being selected; and

(D) If the opinion was not in writing, within forty-eight (48) hours following the date that the opinion was provided, require the clinical reviewer to provide written confirmation of the opinion to the external review organization and include the information required in subsection (k) and (l).

(7) Upon receipt of a notice of a decision reversing the adverse determination, the health carrier shall immediately approve the coverage of the recommended or requested healthcare service or treatment that was the subject of the adverse determination.

(o) The health carrier, regardless of URAC accreditation, shall have a contract with at least two (2) or more external review entities and may give the aggrieved person the opportunity to select, from among the external review organizations that the health carrier has contracts with, the external review organization to conduct the review.

SECTION 20. (a) An external review decision is binding on the health carrier except to the extent that the health carrier has other remedies available under applicable federal or state law.

(b) An external review decision is binding on the covered person except to the extent that the covered person has other remedies available under applicable federal or state law.

(c) An external review decision is binding on the healthcare provider except to the extent that the healthcare provider has other remedies available under applicable federal or state law.

(d) An aggrieved person may not file a subsequent request for external review involving the same adverse determination or final adverse determination for which the covered person has already received an external review decision pursuant to this chapter.

SECTION 21. (a) The commissioner shall approve external review organizations eligible to conduct external reviews under this chapter.

(b) In order to be eligible for approval by the commissioner to conduct external reviews under this chapter, an external review organization:

(1) Except as otherwise provided in this section, shall be accredited by a nationally recognized private accrediting entity that the commissioner has determined has external review organization accreditation standards that are equivalent to or exceed the minimum qualifications for external review organizations established under Section 22; and

(2) Shall submit an application for approval in accordance with subsection (d).

(c) The commissioner shall develop an application form for initially approving and for reapproving external review organizations to conduct external reviews.

(d) Any external review organization wishing to be approved to conduct external reviews under this chapter shall submit the application form and include with the form all documentation and information necessary for the commissioner to determine if the external review organization satisfies the minimum qualifications established under Section 22.

(e) Subject to subsection (b), an external review organization is eligible for approval under this section only if it is accredited by a nationally recognized private accrediting entity that the commissioner has determined has external review organization accreditation standards that are equivalent to or exceed the minimum qualifications for external review organizations under Section 22.

(f) The commissioner may approve external review organizations that are not accredited by a nationally recognized private accrediting entity if there are no acceptable nationally recognized private accrediting entities providing external review organization accreditation.

(g) The commissioner may charge an application fee that external review organizations shall submit to the commissioner with an application for approval and reapproval.

(h) An approval is effective for two (2) years, unless the commissioner determines before its expiration that the external review organization is not satisfying the minimum qualifications established under Section 22. Whenever the commissioner determines that an external review organization has lost its accreditation or no longer satisfies the minimum requirements established under Section 22, the commissioner shall terminate the approval of the external review organization and remove the external review organization from the list of external review organizations approved to conduct external reviews under this chapter that is maintained by the commissioner pursuant to subsection (i).

(i) The commissioner shall maintain and periodically update a list of approved external review organizations.

(j) The commissioner may promulgate rules and regulations to carry out the provisions of this section.

SECTION 22. (a) To be approved under Section 21 to conduct external reviews, an external review organization shall have and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process set forth in this chapter that include, at a minimum:

(1) A quality assurance mechanism in place that:

(A) Ensures that external reviews are conducted within the specified timeframes and required notices are provided in a timely manner;

(B) Ensures the selection of qualified and impartial clinical reviewers to conduct external reviews on behalf of the external review organization; suitable matching of reviewers to specific cases; and that the independent review organization employs or contracts with an adequate number of clinical reviewers to meet this objective;

(C) Ensures the confidentiality of medical and treatment records and clinical review criteria; and

(D) Ensures that any person employed by or under contract with the external review organization adheres to the requirements of this chapter;

(2) A toll-free telephone service to receive information on a twenty-four (24) hour a day, seven (7) day a week basis related to external reviews that is capable of accepting, recording or providing appropriate instruction to incoming telephone callers during hours outside of normal business hours; and

(3) Agree to maintain and provide to the commissioner the information set out in Section 26.

(b) All clinical reviewers aggrieved by an external review organization to conduct external reviews shall be physicians or other appropriate healthcare providers who meet the following minimum qualifications:

(1) Be an expert in the treatment of the covered person's medical condition that is the subject of the external review;

(2) Be knowledgeable about the recommended healthcare service or treatment through recent or current actual clinical experience treating patients with the same or similar medical condition of the covered person;

(3) Hold a non-restricted license in a state of the United States and, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of the external review; and

(4) Have no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that raise a substantial question as to the clinical reviewer's physical, mental or professional competence or moral character.

(c) In addition to the requirements set forth in subsection (a), an external review organization may not own or control, be a subsidiary of or in any way be owned or controlled by, or exercise control with a health benefit plan, a national, state or local trade association of health benefit plans, or a national, state or local trade association of healthcare providers.

(d) In addition to the requirements set forth in subsections (a), (b) and (c), to be approved pursuant to Section 23 to conduct an external review of a specified case, neither the external review organization selected to conduct the external review nor any clinical reviewer assigned by the external organization to conduct the external review may have a material professional, familial or financial conflict of interest with any of the following:

(1) The health carrier that is the subject of the external review;

(2) The covered person whose treatment is the subject of the external review or the covered person's authorized representative;

(3) Any officer, director or management employee of the health carrier that is the subject of the external review;

(4) The healthcare provider, the healthcare provider's medical group or independent practice association recommending the healthcare service or treatment that is the subject of the external review;

(5) The facility at which the recommended healthcare service or treatment would be provided; or

(6) The developer or manufacturer of the principal drug, device, procedure or other therapy being recommended for the covered person whose treatment is the subject of the external review.

(e) In determining whether an external review organization or a clinical reviewer of the external review organization has a material professional, familial or financial conflict of interest for purposes of subsection (d), the commissioner shall take into consideration situations where the external review organization conducting an external review of a specified case or a clinical reviewer to be assigned by the external review organization to conduct an external review of a specified case may have an apparent professional, familial or financial relationship or connection with a person described in subsection (d), but that the characteristics of that relationship or connection are such that they are not a material professional, familial or financial conflict of interest that results in the disapproval of the independent review organization or the clinical reviewer from conducting the external review.

(f) An external review organization that is accredited by a nationally recognized private accrediting entity that has external review accreditation standards that the commissioner has determined are equivalent to or exceed the minimum qualifications of this section shall be presumed in compliance with this section to be eligible for approval under Section 23.

(g) The commissioner shall initially review and periodically review the external review organization accreditation standards of a nationally recognized private accrediting entity to determine whether the entity's standards are, and continue to be, equivalent to or exceed the minimum qualifications established under this section. The commissioner may accept a review conducted by the NAIC for the purpose of the determination under this subsection (g).

(h) Upon request, a nationally recognized private accrediting entity shall make its current external review organization accreditation standards available to the commissioner or the NAIC in order for the commissioner to determine if the entity's standards are equivalent to or exceed the minimum qualifications established under this section. The commissioner may exclude any private accrediting entity that is not reviewed by the NAIC.

(i) An external review organization shall be unbiased. An external review organization shall establish and maintain written procedures to ensure that it is and remains unbiased in addition to any other procedures required under this section.

SECTION 23. No external review organization or clinical reviewer working on behalf of an external review organization or an employee, agent or contractor of an external review organization shall be liable in damages to any person for any opinions rendered or acts or omissions performed within the scope of the organization's or person's duties under the law during or upon completion of an external review conducted pursuant to this chapter, unless the opinion was rendered or act or omission performed in bad faith or involved gross negligence.

SECTION 24. (a) An external review organization conducting an external review pursuant to this chapter shall maintain written records in the aggregate by state and by health carrier on all requests for external review for which it conducted an external review during a calendar year and, upon request, submit a report to the commissioner, as required under subdivision (a)(2).

(1) Each external review organization required to maintain written records on all requests for external review for which it conducted an external review shall submit to the commissioner, upon request, a report in the format specified by the commissioner.

(2) The report shall include in the aggregate by state, and for each health carrier:

(A) The total number of requests for external review;

(B) The number of requests for external review resolved and, of those resolved, the number resolved upholding the adverse determination or final adverse determination and the number resolved reversing the adverse determination or final adverse determination;

(C) The average length of time for resolution;

(D) A summary of the types of coverages or cases for which an external review was sought, as provided in the format required by the commissioner;

(E) The number of external reviews pursuant to Section 17 that were terminated as the result of a reversal by the health carrier of its adverse determination or final adverse determination after the receipt of additional information from the aggrieved person; and

(F) Any other information that the commissioner may request or require.

(3) The external review organization shall retain the written records required pursuant to this subsection (a) for at least three (3) years.

(b) Each health carrier shall maintain written records in the aggregate, by state and for each type of health benefit plan offered by the health carrier on all requests for external review that the health carrier receives notice of from the commissioner pursuant to this chapter.

(1) Each health carrier required to maintain written records on all requests for external review pursuant to this subsection (b) shall submit to the commissioner, upon request, a report in the format specified by the commissioner.

(2) The report shall include in the aggregate, by state, and by type of health benefit plan:

(A) The total number of requests for external review;

(B) From the total number of requests for external review reported under subdivision (b)(2)(A), the number of requests determined eligible for a full external review; and

(C) Any other information that the commissioner may request or require.

(3) The health carrier shall retain the written records required pursuant to this subsection (b) for at least three (3) years.

SECTION 25. The health carrier against which a request for a standard external review or an expedited external review is filed shall pay the cost of the external review organization for conducting the external review.

SECTION 26. (a) Each health carrier shall include a description of the external review procedures in or attached to the membership booklet, provider manual, and health carrier's Web site. The health carrier may include a description of the external review procedures in the policy, certificate, outline of coverage, or other evidence of coverage provided to covered persons and providers.

(b) The disclosure required by subsection (a) shall be in a format prescribed by the commissioner.

(c) The description required under subsection (a) shall include a statement that informs the aggrieved person of the aggrieved person's right to file a request for an external review of an adverse determination or final adverse determination with the carrier. The statement shall include the telephone number and address of the commissioner.

(d) In addition to subsection (b), the statement shall inform the covered person that, when filing a request for an external review, the covered person will be required to authorize the release of any medical records of the covered person that may be required to be reviewed for the purpose of reaching a decision on the external review.

SECTION 27. Tennessee Code Annotated, Section 56-32-110, is amended by deleting the section in its entirety.

SECTION 28. Tennessee Code Annotated, Section 56-32-127, is amended by deleting the section in its entirety.

SECTION 29. Tennessee Code Annotated, Section 56-32-103(b)(11), is amended by deleting the subdivision in its entirety and by substituting instead:

(b)(11) A description of the complaint procedure to be utilized pursuant to the Tennessee Health Carrier Grievance and External Review Procedure Act, compiled in Title 56; and

SECTION 30. If any provision of this act, or the application of any provision to any person or circumstance shall be held invalid, the remainder of the act, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

SECTION 31. For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it, for all other purposes, this act shall take effect January 1, 2011.

Senator Johnson moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 3806**, which motion prevailed by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey--32.

A motion to reconsider was tabled.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1184 -- County Officers -- As introduced, increases in-service training requirements for constables from 40 hours in the first year to 40 hours each year elected; and requires constable to file certification of completion of such in-service training with county clerk. Amends TCA Title 8, Chapter 10.

Senator Crowe moved that the Senate refuse to recede from its action in adopting Senate Amendment No. 3 to **House Bill No. 1184**, which motion prevailed.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 2593 -- Sunset Laws -- As introduced, extends board of examiners for architects and engineers, June 30, 2011. Amends TCA Title 4, Chapter 29 and Title 62, Chapter 2, Part 2.

Senator Watson moved that the Senate refuse to recede from its action in adopting Senate Amendment No. 2 to **House Bill No. 2593**, which motion prevailed.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 2685 -- Employees, Employers -- As introduced, authorizes employers to require English be spoken in the workplace if necessary to conduct the employer's business. Amends TCA Section 4-21-401.

Senator Johnson moved that the Senate refuse to recede from its action in adopting Senate Amendment No. 2 to **House Bill No. 2685**, which motion prevailed.

SENATE JOINT RESOLUTION ON HOUSE AMENDMENT

Senate Joint Resolution No. 306 -- General Assembly, Directed Studies -- Establishes the North Hamilton-Rhea County Creek Management Task Force to study land use practices to manage long-term flooding and develop workable solutions for citizens and governmental entities in the area.

HOUSE AMENDMENT NO. 1

AMEND by adding the following new resolving clauses thereto:

BE IT FURTHER RESOLVED, that the North Hamilton-Rhea County Creek Management Task Force shall deliver a written report annually regarding flooding and measures to address such flooding to the House and Senate members who represent Hamilton and Rhea counties, the Speaker of the House of Representatives and the Speaker of the Senate, and to each member of the House Conservation and Environment Committee and to each member of the Senate Environment, Conservation and Tourism Committee.

BE IT FURTHER RESOLVED, that the North Hamilton-Rhea County Creek Management Task Force shall terminate June 30, 2012, unless continued by the general assembly after a public hearing and review by the Government Operations Committees pursuant to Tennessee Code Annotated, Title 4, Chapter 29.

Senator Watson moved that the Senate nonconcur in House Amendment No. 1 to **Senate Joint Resolution No. 306**, which motion prevailed.

MOTION

Senator McNally moved that Rule 83(8) be suspended for the purpose of placing **Senate Bill No. 3687** on the calendar for the Committee on Finance, Ways and Means for Tuesday, May 11, 2010, which motion prevailed.

MOTION

Senator Kyle moved that Rule 37 be suspended for the purpose of allowing **Senate Bills Nos. 3901, 3911, 3916, 3917, 3918 and 3919** to be placed on the calendar for Thursday, May 13, 2010, if recommended for passage by the Committee on Finance, Ways and Means, which motion prevailed.

MOTION

Senator Black moved that Rule 37 be suspended for the immediate consideration of **Senate Joint Resolution No. 1159**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 1159 -- Memorials, Academic Achievement -- Kaysie Elizabeth Jackson, Salutatorian, Gallatin High School.

On motion of Senator Black, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 1159** was adopted.

MOTION

Senator Black moved that Rule 37 be suspended for the immediate consideration of **Senate Joint Resolution No. 1160**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 1160 -- Memorials, Academic Achievement -- Sara Kathrine Nash, Valedictorian, Gallatin High School.

On motion of Senator Black, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 1160** was adopted.

MOTION

Senator Black moved that Rule 37 be suspended for the immediate consideration of **Senate Joint Resolution No. 1143**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 1143 -- Memorials, Retirement -- Judy Baggett.

On motion of Senator Black, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 1143** was adopted.

MOTION

On motion of Senator Tracy, his name was added as sponsor of **House Joint Resolutions Nos. 1180 and 1196**.

On motion of Senator Burks, her name was added as sponsor of **Senate Bills Nos. 3222, 3267 and 3806; and House Joint Resolution No. 1181**.

On motion of Senators Kyle, Barnes, Stewart and Herron, their names were added as sponsors of **House Joint Resolution No. 1182**.

On motion of Senator Black, her name was added as sponsor of **House Joint Resolution No. 1184**.

On motion of Senator Jackson, his name was added as sponsor of **House Joint Resolutions Nos. 1186, 1211, 1212, 1213 and 1214**.

On motion of Senator Crowe, his name was added as sponsor of **House Joint Resolutions Nos. 1187, 1188, 1189 and 1190**.

On motion of Senators Beavers, Tracy and Black, their names were added as sponsors of **House Joint Resolutions Nos. 1197 and 1198**.

On motion of Senator McNally, his name was added as sponsor of **House Joint Resolution No. 1201**.

On motion of Senator Herron, his name was added as sponsor of **House Joint Resolution No. 1203**.

On motion of Senators Marrero and Kyle, their names were added as sponsors of **House Joint Resolution No. 1204**.

On motion of Senator Marrero, her name was added as sponsor of **House Joint Resolution No. 1205**.

On motion of Senator Faulk, his name was added as sponsor of **House Joint Resolution No. 1215**.

On motion of Senators Barnes, Beavers, Berke, Black, Bunch, Burchett, Burks, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey, their names were added as sponsors of **House Joint Resolution No. 1219**.

On motion of Senators Burks, Barnes, Beavers, Berke, Black, Bunch, Burchett, Crowe, Faulk, Finney, Ford, Harper, Haynes, Henry, Herron, Jackson, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Overbey, Southerland, Stewart, Tate, Tracy, Watson, Woodson, Yager and Mr. Speaker Ramsey, their names were added as sponsors of **House Joint Resolution No. 1220**.

On motion of Senators Beavers and Black, their names were added as sponsors of **Senate Bill No. 63**.

On motion of Senator Norris, his name was added as sponsor of **Senate Bill No. 194**.

On motion of Senators Kelsey and Yager, their names were added as sponsors of **Senate Bill No. 1751**.

On motion of Senator Ford, her name was added as sponsor of **Senate Bill No. 1754**.

On motion of Senators Burks, Black and Ford, their names were added as sponsors of **Senate Bill No. 2703**.

On motion of Senators Marrero, Ford and Burks, their names were added as sponsors of **Senate Bill No. 2708**.

On motion of Senators Jackson and Black, their names were added as sponsors of **Senate Bill No. 3134**.

On motion of Senator Overbey, Mr. Speaker Ramsey and Senators Watson, Yager, Faulk, Tracy and Johnson, their names were added as sponsors of **Senate Bill No. 3169**.

On motion of Senator Black, her name was removed as sponsor of **Senate Bill No. 3222**.

On motion of Senator Yager, his name was added as sponsor of **Senate Joint Resolution No. 860**.

On motion of Senator Barnes, his name was added as sponsor of **Senate Bill No. 3591; and House Joint Resolution No. 1185**.

On motion of Senators Tracy and Black, their names were added as sponsors of **Senate Bill No. 194**.

ENGROSSED BILLS

May 10, 2010

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bills Nos. 63, 1325, 1751, 1754, 2908, 3222 and 3267; and Senate Joint Resolutions Nos. 1143, 1159 and 1160; and find same correctly engrossed and ready for transmission to the House.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

May 10, 2010

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 1967 and 2703, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 10, 2010

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 2454, 2492, 3935 and 3996; passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 10, 2010

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 3351, 3725 and 3979; passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 10, 2010

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 2341. The House lifted the tabling motion on Senate Bill No. 2341, reconsidered Senate Bill No. 2341, reconsidered and withdrew House Amndment No. 3 and repassed Senate Bill No. 2341 on third and final consideration.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 10, 2010

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 796, 959, 1224, 1225, 1226, 1227, 1228, 1229, 1230, 1231, 1232, 1233 and 1234; adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 10, 2010

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 2205, 3608 and 3627; substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 10, 2010

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 2928 and 2965, substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 10, 2010

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 3361, substituted for House Bill on same subject and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 10, 2010

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 3457 and 3824, substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 10, 2010

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 3622, substituted for House Bill on same subject and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 10, 2010

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 761, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139 and 1140; concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

ENROLLED BILLS
May 10, 2010

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Bills Nos. 769, 1075, 2023, 2581, 3002, 3144, 3246, 3257, 3421, 3425, 3528,

3789 and 3819; and Senate Joint Resolutions Nos. 886 and 1148; and find same correctly enrolled and ready for the signatures of the Speakers.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

ENROLLED BILLS
May 11, 2010

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Bills Nos. 2205, 2341, 2712, 2928, 2965, 3161, 3361, 3430, 3457, 3608, 3622, 3627 and 3824; and find same correctly enrolled and ready for the signatures of the Speakers.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

ENROLLED BILLS
May 11, 2010

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Joint Resolutions Nos. 761, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139 and 1140; and find same correctly enrolled and ready for the signatures of the Speakers.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE
May 11, 2010

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 195, 1242, 1277, 2698, 2700, 3225, 3267, 3314, 3605, 3773, 3892 and 3957; for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 11, 2010

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 1180, 1181, 1182, 1184, 1185, 1186, 1187, 1188, 1189, 1190, 1193, 1194, 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1208, 1209, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1219 and 1220; for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

SIGNED
May 10, 2010

The Speaker announced that he had signed the following: Senate Bills Nos. 769, 1075, 2023, 2581, 3002, 3144, 3246, 3257, 3421, 3425, 3528, 3789 and 3819.

SIGNED
May 10, 2010

The Speaker announced that he had signed the following: Senate Joint Resolutions Nos. 886 and 1148.

SIGNED
May 10, 2010

The Speaker announced that he had signed the following: House Bill No. 2817.

SIGNED
May 11, 2010

The Speaker announced that he had signed the following: Senate Joint Resolutions Nos. 761, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139 and 1140.

SIGNED
May 11, 2010

The Speaker announced that he had signed the following: House Joint Resolutions Nos. 1180, 1181, 1182, 1184, 1185, 1186, 1187, 1188, 1189, 1190, 1193, 1194, 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1208, 1209, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1219 and 1220.

MESSAGE FROM THE HOUSE
May 10, 2010

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 886 and 1148, signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 11, 2010

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 769, 1075, 2023, 2581, 3002, 3144, 3246, 3257, 3421, 3425, 3528, 3789 and 3819; signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE
May 11, 2010

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 761, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139 and 1140; signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

REPORT OF CHIEF ENGROSSING CLERK
May 10, 2010

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Joint Resolutions Nos. 886 and 1148, for his action.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

REPORT OF CHIEF ENGROSSING CLERK
May 11, 2010

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Joint Resolutions Nos. 761, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139 and 1140; for his action.

M. SCOTT SLOAN,
Chief Engrossing Clerk.

MESSAGE FROM THE GOVERNOR
May 10, 2010

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Bills Nos. 1142, 2391, 2726, 3000, 3001, 3348, 3625, 3680 and 3906; with his approval.

STEVEN E. ELKINS,
Counsel to the Governor.

MESSAGE FROM THE GOVERNOR
May 10, 2010

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Joint Resolutions Nos. 767, 980, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1075, 1076 and 1077; with his approval.

STEVEN E. ELKINS,
Counsel to the Governor.

MESSAGE FROM THE GOVERNOR
May 11, 2010

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Bills Nos. 3362 and 3854, with his approval.

STEVEN E. ELKINS,
Counsel to the Governor.

MESSAGE FROM THE GOVERNOR

May 11, 2010

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Joint Resolutions Nos. 886, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089, 1090, 1091, 1092, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121 and 1148; with his approval.

STEVEN E. ELKINS,
Counsel to the Governor.

REPORT OF COMMITTEE ON CALENDAR
CONSENT CALENDAR

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Thursday, May 13, 2010: Senate Joint Resolutions Nos. 1141, 1142, 1144, 1145, 1146, 1147, 1149, 1150, 1151, 1152, 1153, 1154, 1155, 1156, 1157, 1158, 1161, 1162, 1163, 1164, 1165, 1166, 1167 and 1168; and Senate Resolutions Nos. 220, 221 and 222.

This the 11th day of May, 2010.
MIKE FAULK, Chairperson.

REPORT OF COMMITTEE ON CALENDAR
LOCAL BILL
CONSENT CALENDAR

Pursuant to Rule 26, the following bills have been set on the Consent Calendar for Thursday, May 13, 2010: Senate Bills Nos. 3447, 3938, 3952 and 3953.

This the 11th day of May, 2010.
MIKE FAULK, Chairperson.

REPORT OF COMMITTEE ON CALENDAR # 1

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Thursday, May 13, 2010: Senate Bills Nos. 3335, 3345, 3363, 3367, 3380, 3394, 3411, 3428, 3524, 3526, 3538, 3549, 3621, 3678, 3692, 3740, 3753 and 3897; House Joint Resolution No. 1047; Senate Joint Resolution No. 860; Senate Bills Nos. 94, 2704, 3039, 3234, 966, 1141, 1444, 2033, 2472, 2665, 2795, 2810, 2811, 3121, 3155 and 3624; and House Bill No. 3149.

This the 11th day of May, 2010.
MIKE FAULK, Chairperson.

REPORT OF COMMITTEE ON CALENDAR # 2

MR. SPEAKER: Your Committee on Calendar begs leave to report that we have met and set the following bills on the calendar for Thursday, May 13, 2010: Senate Bills Nos. 2424, 2440, 2443,

2445, 2449, 2451, 2453, 2455, 2456, 2457, 2458, 2459, 2461, 2462, 2463, 2464 and 2467; and House Bill No. 2455.

This the 11th day of May, 2010.
MIKE FAULK, Chairperson.

REPORT OF COMMITTEE ON CALENDAR
SENATE MESSAGE CALENDAR

Pursuant to Rule 44, notice has been given on the following bills and they have been set on the Message Calendar for Thursday, May 13, 2010: Senate Bills Nos. 3053 and 3489.

This the 11th day of May, 2010.
MIKE FAULK, Chairperson.

ADJOURNMENT

Senator Norris moved the Senate adjourn until 9:00 a.m., Thursday, May 13, 2010, which motion prevailed.